

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-First Legislature
State of Maine

Volume I

First Regular Session

December 4, 2002 – May 23, 2003

Pages 1-776

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
 FIRST REGULAR SESSION
 52nd Legislative Day
 Thursday, May 15, 2003

The House met according to adjournment and was called to order by the Speaker.

Prayer by Chief Leroy Jones, Chaplain of Maine Chiefs of Police, Waldoboro.

National Anthem by Brandy Duprey, Hampden.

Pledge of Allegiance.

Doctor of the day, Sean Clinefelter, M.D., Portland.

The Journal of yesterday was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act Concerning Municipal Firearms Discharge Ordinances"

(H.P. 781) (L.D. 1063)

Majority (10) **OUGHT TO PASS AS AMENDED** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-321)** in the House on May 13, 2003.

Came from the Senate with the Minority (2) **OUGHT NOT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** in **NON-CONCURRENCE**.

On motion of Representative **BARSTOW** of Gorham, the House voted to **INSIST**. Sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

Non-Concurrent Matter

Bill "An Act To Protect and Encourage Firearms Shooting Ranges Throughout the State"

(H.P. 525) (L.D. 719)

Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT** in the House on May 6, 2003.

Came from the Senate with the Minority (5) **OUGHT NOT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Representative **BARSTOW** of Gorham moved that the House **RECEDE AND CONCUR**.

The **SPEAKER**: The Chair recognizes the Representative from Old Town, Representative **Dunlap**.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. Before you vote on the motion to Recede and Concur, I would like to tell you a little bit about this bill, of which I am the sponsor. I would like you to think of this as legislation to protect your remote gravel pits. If you think about what types of services shooting ranges provide to the public, it allows them a place where they can legally go and enjoy a past time, rather than look for somewhere way out of the way where they won't bother anyone. Often times, in my area certainly, that is reflected in the use of abandoned gravel pits, which then are generally filled up with litter, trash and old televisions and eventually those places are posted no trespassing, further pushing people away.

There was a time in this state when if you wanted to do some target practice, you could do it in your back yard. Urban sprawl has more or less ended all that. This bill was brought forward and it is a continuance of legislation that was passed in this Legislature in the 117th Legislature dealing with protecting existing shooting ranges from local noise ordinances. This was brought forward now to protect the ones that were built since that time. There is a very, very unfortunate situation in the Town of Richmond where a fella named Brad Varney built a shooting range, investing his life savings in it. He was in compliance with all the local ordinances, including the local noise ordinance. Everything was perfectly fine and legal. A neighbor moved from Massachusetts, I have nothing against Massachusetts, my wife is from Massachusetts, but used the noise ordinances to harass Mr. Varney almost to an unthinkable end. He had to hire an attorney. The town had to spend a great deal of money on a noise test, which was found to have Mr. Varney in compliance with the local ordinance. However, Interstate 95 was not in compliance with the local noise ordinance, which is rather ironic.

I think what this is designed to do is to protect those people who invest this type of money and provide a public service for a safe place for people to go and enjoy a great pastime. It would extend this protection from noise ordinances to all shooting ranges, not just those ones built before 1995.

I would urge the body to adopt the posture of the majority of the State and Local Government Committee and not vote to Recede and Concur and kill this bill at this time. Mr. Speaker, I request a division on this motion.

Representative **DUNLAP** of Old Town **REQUESTED** a division on the motion to **RECEDE AND CONCUR**.

The Chair ordered a division on the motion to **RECEDE AND CONCUR**.

The **SPEAKER**: The Chair recognizes the Representative from Cape Elizabeth, Representative **McLaughlin**.

Representative **MCLAUGHLIN**: Mr. Speaker, Men and Women of the House. I am on the Minority Report on LD 719. What does the woman from Cape Elizabeth know about gun ranges? Let me tell you about my dad. Let me tell you about my dad's involvement with the Scarborough Rod and Gun Club. Let me tell you about my dad when he was fortunate enough to move back to the State of Maine to the Town of Gorham. He had a shooting range set up in his back yard. I have grown up around gun ranges. I have grown up around shooting. I have grown up around hunting over the years.

What this bill will do is amend something that was put into effect in our last session saying that a municipal noise control ordinance may not require or be applied so as to require its sport shooting range to eliminate shooting activities that have occurred on a regular basis at the range prior to the enactment date of the ordinance. That is what is on the books right now.

The bill being discussed would take away that grandfathering. It flies in the face of your local control by saying that it doesn't matter if it is a new gun range, an old gun range. You want to have an ordinance in your town, your town has gone through its process, you have it in place, but it doesn't apply to gun ranges. Think about it. Is that fair? I repeat, is that fair? I contend it is not. I encourage you to support the Minority Report and the motion on the floor.

The **SPEAKER**: A division has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken. 44 voted in favor of the same and 72 against, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

On motion of Representative DUNLAP of Old Town, the House voted to **RECEDE**.

On further motion of the same Representative, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Friday, May 16, 2003.

Non-Concurrent Matter

Bill "An Act To Provide That Employee Terminations by Any Company That Receives Monetary Benefits from the State Require Just Cause"

(H.P. 860) (L.D. 1163)

FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-175) in the House on May 12, 2003.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-175)** in **NON-CONCURRENCE**.

Representative SMITH of Van Buren moved that the House **RECEDE AND CONCUR**.

On further motion of the same Representative, **TABLED** pending his motion to **RECEDE AND CONCUR** and later today assigned.

COMMUNICATIONS

The Following Communication: (H.C. 211)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002**

May 15, 2003

Honorable Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, ME 04333

Dear Clerk MacFarland:

Pursuant to my authority under Rule 371 of the Joint Rules, I hereby appoint the following Representatives to serve as members of the *Government Oversight Committee*, the committee having oversight responsibility for the Office of Program Evaluation and Government Evaluation:

Representative Matthew Dunlap of Old Town

Representative Bonita Breault of Buxton

Representative John Piotti of Unity

Representative David Trahan of Waldoboro

Representative Deborah McNeil of Rockland

Representative Stanley Moody of Manchester

Please feel free to contact me if you have any questions regarding these appointments.

Sincerely,

S/Patrick Colwell

Speaker of the House

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Promote Stewardship of Forest Resources"

(H.P. 1194) (L.D. 1616)

Sponsored by Speaker COLWELL of Gardiner. (GOVERNOR'S BILL)

Cosponsored by Senator BRYANT of Oxford and Representatives: FLETCHER of Winslow, KOFFMAN of Bar Harbor, McKEE of Wayne, PINEAU of Jay, SAVIELLO of Wilton, SMITH of Monmouth, Senators: President DAGGETT of Kennebec, KNEELAND of Aroostook.

Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested and ordered printed.

REFERRED to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** and ordered printed.

Sent for concurrence.

Bill "An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by School Administrative District No. 71" (EMERGENCY)

(H.P. 1193) (L.D. 1615)

Sponsored by Representative MURPHY of Kennebunk.

Cosponsored by Representative: SULLIVAN of Biddeford.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **STATE AND LOCAL GOVERNMENT** suggested.

Under suspension of the rules, the Bill was given its **FIRST READING WITHOUT REFERENCE** to a committee.

Under further suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

ORDERS

On motion of Representative GOODWIN of Pembroke, the following Joint Resolution: (H.P. 1192) (Under suspension of the rules, cosponsored by Senator SHOREY of Washington and Representatives: ADAMS of Portland, ANDREWS of York, ANNIS of Dover-Foxcroft, ASH of Belfast, AUSTIN of Gray, BARSTOW of Gorham, BENNETT of Caribou, BERRY of Belmont, BERUBE of Lisbon, BIERMAN of Sorrento, BLANCHETTE of Bangor, BLISS of South Portland, BOWEN of Rockport, BOWLES of Sanford, BRANNIGAN of Portland, BREAUULT of Buxton, BROWN of South Berwick, BROWNE of Vassalboro, BRUNO of Raymond, BRYANT-DESCHENES of Turner, BULL of Freeport, BUNKER of Kossuth Township, CAMPBELL of Newfield, CANAVAN of Waterville, CARR of Lincoln, CHURCHILL of Orland, CHURCHILL of Washburn, CLARK of Millinocket, CLOUGH of Scarborough, COLLINS of Wells, Speaker COLWELL of Gardiner, COURTNEY of Sanford, COWGER of Hallowell, CRAVEN of Lewiston, CRESSEY of Baldwin, CROSTHWAITE of Ellsworth, CUMMINGS of Portland, CURLEY of Scarborough, DAIGLE of Arundel, DAVIS of Falmouth, DUDLEY of Portland, DUGAY of Cherryfield, DUNLAP of Old Town, DUPLESSIE of Westbrook, DUPREY of Hampden, DUPREY of Medway, EARLE of Damariscotta, EDER of Portland, FAIRCLOTH of Bangor, FINCH of Fairfield, FISCHER of Presque Isle, FLETCHER of Winslow, GAGNE-FRIEL of Buckfield, GERZOFKY of Brunswick, GLYNN of South Portland, GREELEY of Levant, GROSE of Woolwich, HATCH of Skowhegan, HEIDRICH of Oxford, HONEY of Boothbay, HOTHAM of Dixfield, HUTTON of Bowdoinham, JACKSON of Fort Kent, JACOBSEN of Waterboro, JENNINGS of Leeds, JODREY of Bethel, JOY of Crystal, KAELIN of Winterport, KANE of Saco, KETTERER of Madison, KOFFMAN of Bar Harbor, LANDRY of Sanford, LAVERRIERE-BOUCHER of Biddeford,

LEDWIN of Holden, LEMOINE of Old Orchard Beach, LERMAN of Augusta, LESSARD of Topsham, LEWIN of Eliot, LORING of the Penobscot Nation, LUNDEEN of Mars Hill, MAIETTA of South Portland, MAILHOT of Lewiston, MAKAS of Lewiston, MARLEY of Portland, MARRACHÉ of Waterville, McCORMICK of West Gardiner, McGLOCKLIN of Embden, McGOWAN of Pittsfield, McKEE of Wayne, McKENNEY of Cumberland, McLAUGHLIN of Cape Elizabeth, McNEIL of Rockland, MILLETT of Waterford, MILLS of Farmington, MILLS of Cornville, MOODY of Manchester, MOORE of the Passamaquoddy Tribe, MOORE of Standish, MURPHY of Kennebunk, MUSE of Fryeburg, NORBERT of Portland, NORTON of Bangor, NUTTING of Oakland, O'BRIEN of Augusta, O'BRIEN of Lewiston, O'NEIL of Saco, PARADIS of Frenchville, PATRICK of Rumford, PEAVEY-HASKELL of Greenbush, PELLON of Machias, PERCY of Phippsburg, PERRY of Calais, PERRY of Bangor, PINEAU of Jay, PINGREE of North Haven, PIOTTI of Unity, RECTOR of Thomaston, RICHARDSON of Greenville, RICHARDSON of Brunswick, RICHARDSON of Skowhegan, RINES of Wiscasset, ROGERS of Brewer, ROSEN of Bucksport, SAMPSON of Auburn, SAVIELLO of Wilton, SHERMAN of Hodgdon, SHIELDS of Auburn, SIMPSON of Auburn, SMITH of Monmouth, SMITH of Van Buren, SNOWE-MELLO of Poland, STONE of Berwick, SUKEFORTH of Union, SULLIVAN of Biddeford, SUSLOVIC of Portland, SYKES of Harrison, TARDY of Newport, THOMAS of Orono, THOMPSON of China, TOBIN of Windham, TOBIN of Dexter, TRAHAN of Waldoboro, TREADWELL of Carmel, TWOMEY of Biddeford, USHER of Westbrook, VAUGHAN of Durham, WALCOTT of Lewiston, WATSON of Bath, WHEELER of Kittery, WOODBURY of Yarmouth, WOTTON of Littleton, YOUNG of Limestone, Senators: BENNETT of Oxford, BLAIS of Kennebec, BRENNAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, CARPENTER of York, CATHCART of Penobscot, President DAGGETT of Kennebec, DAMON of Hancock, DAVIS of Piscataquis, DOUGLASS of Androscoggin, EDMONDS of Cumberland, GAGNON of Kennebec, GILMAN of Cumberland, HALL of Lincoln, HATCH of Somerset, KNEELAND of Aroostook, LaFOUNTAIN of York, LEMONT of York, MARTIN of Aroostook, MAYO of Sagadahoc, MITCHELL of Penobscot, NASS of York, PENDLETON of Cumberland, ROTUNDO of Androscoggin, SAVAGE of Knox, SAWYER of Penobscot, STANLEY of Penobscot, STRIMLING of Cumberland, TREAT of Kennebec, TURNER of Cumberland, WESTON of Waldo, WOODCOCK of Franklin, YOUNGBLOOD of Penobscot)

**JOINT RESOLUTION HONORING DR. JOHN H. JOSEPH,
PRESIDENT**

OF THE UNIVERSITY OF MAINE AT MACHIAS

WHEREAS, We, the Members of the One Hundred and Twenty-first Legislature, now assembled in the First Regular Session, have learned of the sudden and untimely death of Dr. John H. Joseph on Saturday, May 10, 2003; and

WHEREAS, Dr. Joseph had served for nearly 3 years as President of the University of Maine at Machias; and

WHEREAS, during his time as President he led his institution to new levels of quality, achievement and respect; and

WHEREAS, Dr. Joseph's leadership resulted in improved student recruitment and retention and a stronger relationship with Downeast Maine; and

WHEREAS, under Dr. Joseph's guidance his university has developed a bright and promising future as a premier institution emphasizing environmental studies and liberal arts; and

WHEREAS, Dr. Joseph's efforts as President quickly earned the strong respect and support of faculty, students, staff and alumni; and

WHEREAS, Dr. Joseph played an important leadership role within the University of Maine System, demonstrating a broad vision of public higher education in Maine; and

WHEREAS, Dr. Joseph shared his leadership skills with the Downeast community as a board member of the Machias Bay Area Chamber of Commerce and the Downeast Institute for Applied Marine Research and Education; and

WHEREAS, Dr. Joseph served in advisory roles with Down East Community Hospital and the Route 1 Corridor Committee; and

WHEREAS, Dr. Joseph served with distinction as a member of the Maine Tourism Commission, a position to which he was appointed by the Governor; and

WHEREAS, Dr. Joseph's 28 years in higher education resulted in immeasurable benefits to the students, states and institutions for whom he dedicated his efforts; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to express to Dr. Joseph's family and to the University of Maine at Machias community the State's gratitude for the leadership, vision and public service that Dr. Joseph shared and demonstrated as a resident of his adopted Maine; and be it further

RESOLVED: That We express our deepest sorrow upon the death of Dr. John H. Joseph and that this sentiment and the Legislature's condolences be communicated to Dr. Joseph's wife of 37 years, Marlene Smith Joseph; his daughter, Ashley Joseph McGettigan; his son-in-law, Joseph McGettigan; his 2 grandchildren, Lauren Mary McGettigan and John Joseph McGettigan; his brother, James Joseph; and the students, faculty and staff of the University of Maine at Machias.

READ and ADOPTED.

Sent for concurrence.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

Recognizing:

the memory of Trooper Charles C. Black, of York, and Constable Maurice D. Beane, of Passadumkeag, and all other law enforcement officials who have given their lives in the line of duty. We take this opportunity during National Law Enforcement Memorial Week to honor these 2 named individuals and all the others who so bravely defended the laws of the State to protect all its citizens;

(HLS 559)

Presented by Representative ANDREWS of York.

Cosponsored by Senator DAVIS of Piscataquis, Senator LEMONT of York, Senator CATHCART of Penobscot, Representative LESSARD of Topsham, Representative CARR of Lincoln, Representative CHURCHILL of Washburn, Representative PEAVEY-HASKELL of Greenbush.

On **OBJECTION** of Representative ANDREWS of York, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from York, Representative Andrews.

Representative **ANDREWS**: Mr. Speaker, Ladies and Gentlemen of the House. On Memorial Day each year we honor all those men and women who gave their lives in defense for their country. This is National Law Enforcement Memorial Week. Today here in Maine we honor and remember all those men and

women of Maine who have given their life in the line of duty to protect us and all of the citizens of Maine throughout the years. There are many names on the memorial here on State House grounds and we honor all of them. Today I list only two names. Trooper Charles Black of York, because that name is so personal to me. He was my first husband and the father of my children. Constable Maurice Beane of Passadumkeag who died in 1913 and whose name is just being added this year. Representative Haskell will speak to this shortly.

Remembering and recognizing all these individuals today, believe me, brings comfort to those left behind. I know because all the memories and loss is just as painful to me today as it was nearly 40 years ago. I urge you all to attend the ceremony today at 11. When we adjourn today, we do so in memory of all those brave individuals. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative **LESSARD**: Mr. Speaker, Ladies and Gentlemen of the House. Today we remember those special officers whose sacrifice has been etched in the souls and the minds of the survivors and the officers who cared for them. Today we remember and celebrate the lives of these very special officers. We speak of integrity, duty and virtue. We speak of heroes. Every officer of the law takes an oath and accepts as his or her personal responsibility the obligation to protect and to serve and to uphold the laws of this great land. The men and women who serve this state are our guardians of peace. They do so at great personal risk. We are especially reminded of this reality at a moment such as this when we remember those who have lost their lives in providing that service. Far too many talented and brave officers made the ultimate sacrifice in the performance of their duty to ensure a more peaceful and orderly society so that we all might feel safer and more secure in our homes with our families.

Often we fail to let officers know how important they are to our communities and our families. It should not take a tragedy for us to recognize and acknowledge the work that these people do for us every day. The next time we see an officer in the grocery store, restaurant or just walking down the street, just a reminder to say, I appreciate you.

Today reminds us that nothing is routine in law enforcement. There is nothing routine about his job. There is danger in this calling. While we often think of these individuals as cops, sheriffs or troopers, they carry their titles as well, husband, wife, brother, sister, son or daughter. They have families and friends, parents, brothers, sisters, spouses and children. It has been said that a hero is someone who has given his or her life for something bigger than one's self. Clearly these men and women gave their lives to something bigger than themselves. They gave their lives to maintain public order so that we could have a free and democratic society. They serve the public and let us, therefore, honor their public service.

For House members that wish to attend the Law Enforcement Memorial Service today, it will be held at 11 a.m. at the memorial next to the south parking lot and State Street. I believe our Chief Executive is also scheduled to speak. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Greenbush, Representative Peavey-Haskell.

Representative **PEAVEY-HASKELL**: Mr. Speaker, Men and Women of the House. In 1913 Maurice Dudley Beane was the constable of the very small town of Passadumkeag. One cold January morning he was summonsed to the local hotel to make an arrest. There was a young man who had deserted from the Navy. He had also perpetrated a fraud against one of the local woods operators. That woods operator had set up a meeting at

the hotel as sort of a sting operation whereby he wished Constable Beane to be present and make an arrest. The meeting did take place and when Constable Beane announced the fact that he was going to arrest this man, the deserter panicked, pulled a gun, fired and ran out the door. Constable Beane pursued him until he fell, mortally wounded, in the snow at the foot of the steps of the hotel.

The murderer fled into the nearby woods and disappeared. Search parties were formed and throughout the day and night and the next day, they tracked the murderer through the woods to Burlington, some 20 miles away. There, sometime during the following day, a group lead by Constable Smart of Greenbush, apprehended the murderer hiding in some bushes. When they called for him to surrender, he drew his gun again and shot himself. It was a senseless tragedy. Constable Beane left behind two small children and a wife pregnant with a third child. It was a sensational story. It was well recorded throughout the area, but quickly forgotten.

I grew up in the Town of Passadumkeag. I ate ice cream cones at the lunch counter of that hotel. I played on the front steps. Nobody ever mentioned this incident. Constable Smart from Greenbush, who was also a member of this House, was the brother of my great grandmother and yet our family never told this tale. It was entirely forgotten for 90 years until Pastor Jack Caron arrived to serve the Passadumkeag Baptist Church. He was interested in local history and uncovered this story. He contacted me and together he and I have been able to bring recognition long overdue to Constable Beane and the sacrifice he made for his community and for all of us.

His name has been added to the memorial outside our building. I urge all of you to attend the ceremony there at 11 o'clock. Constable Beane's family will be there. They are very, very excited about this, to think that their ancestor will be recognized. It will be his grandchildren, his great grandchildren and his great-great grandchildren. I hope you will all attend. Thank you.

Subsequently, **PASSED** and sent for concurrence.

In Memory of:

Robert E. Graff, of South Portland, a devoted husband and father who was generous and unconditional in his love for his family. As a student at Portland High School, he excelled at football, basketball and baseball. At Bowdoin College and under the coaching of Danny McFadden, Mr. Graff led the Polar Bears to 3 consecutive Maine Series titles. For nearly 50 years, he held the record for the best single season batting average for the Bowdoin College baseball team, where in his senior year, he was the recipient of the distinguished Andrew Allison Haldane Cup. After serving in the military, he had a tryout with the Brooklyn Dodgers, where he competed against future Hall of Famer Roy Campanella. In 1990, he became a member of the Maine Baseball Hall of Fame, and in 2002, he was the first recipient of the Bob Ganley Award. He taught at Livermore Falls High School and at Portland High School. He was known by his peers, players and students as a first-class sportsman and gentleman who inspired countless students as a longtime football coach and math teacher. In addition to his love of sports, Mr. Graff also enjoyed gardening and spending time in the outdoors, camping and hiking at Isle au Haut with family and friends. He was a communicant at Holy Cross Church. He will be missed by his family, friends, peers and students;

(HLS 570)

Presented by Representative DAVIS of Falmouth.

Cosponsored by Senator BRENNAN of Cumberland, Senator BROMLEY of Cumberland, Representative BLISS of South Portland, Representative MAIETTA of South Portland, Representative GLYNN of South Portland.

On **OBJECTION** of Representative DAVIS of Falmouth, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Mr. Speaker, Ladies and Gentlemen of the House. Bobby Graff was the head football coach of Portland High School for many years, in the '60s and early '70s. What the sentiment does not say is he also played four years of football at Bowdoin College for the famous Adam Walsh, who was the Captain of the Four Horsemen. Adam Walsh in his retirement used to go to practice at Portland High School. As a young man I had a double influence of Adam Walsh and Bobby Graff to guide me on my way.

With Bobby Graff's death, it is a passing of a generation. He was a real fine gentleman. He always treated people with respect and dignity. He was something of a 19th Century gentleman, as we know it, has passed on. I think we will all miss him very much.

Subsequently, **ADOPTED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

**REPORTS OF COMMITTEE
Ought to Pass as Amended**

Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Establish the Pine Tree Development Zones Program"

(S.P. 456) (L.D. 1385)

Reporting **Ought to Pass as Amended by Committee Amendment "A" (S-68)**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-68) AS AMENDED BY SENATE AMENDMENT "B" (S-146)** thereto.

READ.

On motion of Representative SULLIVAN of Biddeford, the Committee Report was **ACCEPTED**.

The **SPEAKER**: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. This is a very important program that the Chief Executive has come forward with. Members in the rural caucus have been very much involved in this. We believe that as we move forward with this, that this is really something that would help the rural areas of the state.

I was a little disturbed when I read the amendment (S-146), which changed some of the criteria for the Pine Tree Zones in that when this started out there was two factors taken into consideration. One was that there was above average unemployment and the other was below average wages.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-68)** was **READ** by the Clerk.

On further motion by Representative SULLIVAN of Biddeford, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (S-68)** and later today assigned.

Report of the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Authorize the State To Establish a Multijurisdictional Lottery or Lottery Games"

(S.P. 515) (L.D. 1536)

Reporting **Ought to Pass as Amended by Committee Amendment "A" (S-147)**.

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED**.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**. **COMMITTEE AMENDMENT "A" (S-147)** **READ** by the Clerk and **ADOPTED**.

The Bill was assigned for **SECOND READING** Friday, May 16, 2003.

Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act To Clarify the Purchase of Military Time Served under the Maine State Retirement System"

(S.P. 333) (L.D. 992)

Signed:

Senators:

EDMONDS of Cumberland

STANLEY of Penobscot

Representatives:

SMITH of Van Buren

HUTTON of Bowdoinham

HATCH of Skowhegan

PATRICK of Rumford

JACKSON of Fort Kent

WATSON of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-139)** on same Bill.

Signed:

Senator:

BLAIS of Kennebec

Representatives:

CRESSEY of Baldwin

HEIDRICH of Oxford

NUTTING of Oakland

TREADWELL of Carmel

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

READ.

Representative SMITH of Van Buren moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative TREADWELL of Carmel **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is acceptance of the Majority **Ought Not to Pass** Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 108

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Breault, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Hatch, Hotham, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McCormick, McGlocklin, McGowan, Mills J, Moody, Norbert, Norton,

O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Pineau, Pingree, Piotti, Richardson E, Richardson J, Rines, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Davis, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Jacobsen, Jodrey, Kaelin, Ledwin, Lewin, McKee, McKenney, McNeil, Millett, Mills S, Moore, Murphy, Nutting, Peavey-Haskell, Rector, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Woodbury, Young.

ABSENT - Brannigan, Bryant-Deschenes, Bull, Bunker, Daigle, Dugay, Gerzofsky, Goodwin, Grose, Joy, Maietta, Marraché, McLaughlin, Muse, O'Brien J, Pellon, Perry J, Tardy, Vaughan.

Yes, 73; No, 59; Absent, 19; Excused, 0.

73 having voted in the affirmative and 59 voted in the negative, with 19 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence. **ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought Not to Pass** on Bill "An Act To Ensure the Rights of Host Communities Regarding the Construction and Operation of State-owned Solid Waste Disposal Facilities"

(S.P. 282) (L.D. 803)

Signed:

Senators:

MARTIN of Aroostook
EDMONDS of Cumberland
SAWYER of Penobscot

Representatives:

KOFFMAN of Bar Harbor
MAKAS of Lewiston
SAVIELLO of Wilton
THOMPSON of China
DAIGLE of Arundel
TOBIN of Windham
JOY of Crystal
ANNIS of Dover-Foxcroft

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-150)** on same Bill.

Signed:

Representatives:

TWOMEY of Biddeford
HUTTON of Bowdoinham

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

READ.

On motion of Representative KOFFMAN of Bar Harbor, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence. **ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-145)** on Bill "An Act To Promote Energy Conservation"

(S.P. 92) (L.D. 233)

Signed:

Senators:

HALL of Lincoln
YOUNGBLOOD of Penobscot

Representatives:

RINES of Wiscasset
FLETCHER of Winslow
LUNDEEN of Mars Hill
MOODY of Manchester
ADAMS of Portland
BERRY of Belmont
BLISS of South Portland
CRESSEY of Baldwin
RICHARDSON of Skowhegan

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Representative:

GOODWIN of Pembroke

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-145).**

READ.

On motion of Representative RINES of Wiscasset, the Majority **Ought to Pass as Amended** Report was **ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-145)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, May 16, 2003.

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Improve the Procedure for Locating Runaway Children"

(H.P. 713) (L.D. 956)

Signed:

Senator:

STRIMLING of Cumberland

Representatives:

MAIETTA of South Portland
GROSE of Woolwich
GREELEY of Levant
BLANCHETTE of Bangor
CHURCHILL of Washburn
LESSARD of Topsham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-367)** on same Bill.

Signed:

Senators:

HATCH of Somerset
CARPENTER of York

Representatives:

BUNKER of Kossuth Township
SYKES of Harrison
SNOWE-MELLO of Poland

READ.

On motion of Representative BLANCHETTE of Bangor, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass** on Bill "An Act To Clarify When Notice is Effective to Terminate a Tenancy at Will"

(H.P. 729) (L.D. 1008)

Signed:

Senators:

LEMONT of York
MAYO of Sagadahoc
GAGNON of Kennebec

Representatives:

CLARK of Millinocket
GLYNN of South Portland
HOTHAM of Dixfield
BROWN of South Berwick
MOORE of Standish
PATRICK of Rumford
BLANCHETTE of Bangor
CANAVAN of Waterville
JENNINGS of Leeds

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Representative:

LANDRY of Sanford

READ.

On motion of Representative PATRICK of Rumford, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Friday, May 16, 2003.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1132) (L.D. 1546) Bill "An Act To Amend Certain Provisions Relating to a Permit To Carry Concealed Firearms To Be Consistent with Changes to the Statute Relating to Possession of Firearms by Prohibited Persons" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass**

(H.P. 520) (L.D. 703) Bill "An Act To Change the Options for a Lobster Management Zone and To Change Entry Criteria for Noncommercial Licensees" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-375)**

(H.P. 908) (L.D. 1234) Bill "An Act To Protect Moderate-value and High-value Bird Habitats" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-372)**

(H.P. 1039) (L.D. 1416) Bill "An Act To Create an Owner-operator Requirement in the Scallop Fishery" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-374)**

(H.P. 1048) (L.D. 1429) Bill "An Act To Authorize the Department of Audit To Perform Other Audits and Reviews" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-369)**

(H.P. 1113) (L.D. 1520) Bill "An Act To Amend the Motor Vehicle Laws" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-371)**

(H.P. 1121) (L.D. 1529) Bill "An Act To Reclassify Certain Waters of the State" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-373)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

ENACTORS

Emergency Measure

An Act To Protect Lienholders of Titled Vehicles

(H.P. 780) (L.D. 1062)
(C. "A" H-299)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

Emergency Measure

An Act To Conform the Maine Tax Laws for 2002 with the United States Internal Revenue Code

(H.P. 1067) (L.D. 1462)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

Emergency Measure

Resolve, Directing the Department of Agriculture, Food and Rural Resources, the Department of Education, the Department of Human Services and the Department of Labor To Review the 2002 United States Environmental Protection Agency List of Pesticides Registered and Classified as Known, Likely or Probable Human Carcinogens

(H.P. 158) (L.D. 199)
(C. "A" H-323)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of the same and 10 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

Emergency Measure

Resolve, To Establish the Committee To Study Compliance with Maine's Freedom of Access Laws

(H.P. 797) (L.D. 1079)
(C. "A" H-326)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

Representative KOFFMAN of Bar Harbor **REQUESTED** a roll call on **FINAL PASSAGE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Final Passage. All those in favor will vote yes, those opposed will vote no.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 109

YEA - Adams, Andrews, Annis, Ash, Austin, Barstow, Bierman, Blanchette, Bliss, Bowen, Breault, Brown R, Canavan, Carr, Clark, Cowger, Craven, Cummings, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Glynn, Greeley, Hatch, Hotham, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McCormick, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Mills J, Moody, Murphy, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson J, Rines, Rogers, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Sukeforth, Sullivan, Suslovic, Sykes, Thomas, Thompson, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Berry, Berube, Bowles, Browne W, Bruno, Campbell, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Fletcher, Heidrich, Honey, Jacobsen, Jodrey, Kaelin, Lewin, McKenney, Millett, Mills S, Moore, Nutting, Peavey-Haskell, Richardson E, Richardson M, Rosen, Stone, Tobin D, Tobin J, Treadwell, Vaughan, Young.

ABSENT - Bennett, Brannigan, Bryant-Deschenes, Bull, Bunker, Daigle, Gerzofsky, Goodwin, Grose, Joy, Maietta, Marraché, Muse, O'Brien J, Pellon, Pery J, Tardy.

Yes, 98; No, 36; Absent, 17; Excused, 0.

98 having voted in the affirmative and 36 voted in the negative, with 17 being absent, and accordingly and accordingly the Resolve **FAILED FINAL PASSAGE** and was sent to the Senate.

Emergency Measure

Resolve, To Establish a Task Force on the Planning and Development of Marine Aquaculture in Maine

(H.P. 1112) (L.D. 1519)

(H. "A" H-327 to C. "A" H-281)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 1: Community Industrial Building Program, a Major Substantive Rule of the Maine Rural Development Authority

(H.P. 1143) (L.D. 1560)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being

necessary, a total was taken. 115 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Acts

An Act Imposing a Horsepower Restriction for Boat Motors on Pickerel Pond
(H.P. 32) (L.D. 25)

An Act Regarding Alewife Harvesting
(H.P. 115) (L.D. 106)
(C. "A" H-302)

An Act To Establish a Definition for Biodiesel Fuels
(S.P. 160) (L.D. 441)
(C. "A" S-135)

An Act To Clarify Tax Appeal Procedures
(H.P. 343) (L.D. 451)
(C. "A" H-310)

An Act To Implement the Recommendations of the State House and Capitol Park Commission Regarding a Living Memorial in Capitol Park
(H.P. 373) (L.D. 484)
(C. "A" H-308)

An Act To Standardize Reporting Requirements for State Party Committees' Expenditures and Contributions
(H.P. 489) (L.D. 659)
(H. "A" H-329 to C. "A" H-301)

An Act Relating to Employees Whose Membership in the Maine State Retirement System is Optional
(S.P. 236) (L.D. 672)
(C. "A" S-138)

An Act To Create the Snowmobile Trail Fund Advisory Council
(H.P. 577) (L.D. 778)
(C. "A" H-306)

An Act To Change Mandatory Minimum Sentences in Certain Cases
(H.P. 633) (L.D. 856)
(C. "A" H-311)

An Act To Clarify the Status of Regulated Water Utility Plumbing Permits
(S.P. 348) (L.D. 1004)
(C. "A" S-128)

An Act To Amend the Filing Requirements for Special Hide Dealers
(H.P. 779) (L.D. 1061)
(C. "A" H-303)

An Act To Include Alternates as Regular Jurors
(H.P. 854) (L.D. 1155)
(C. "A" H-325)

An Act To Amend the Subdivision Laws
(H.P. 951) (L.D. 1297)
(C. "A" H-330)

An Act Concerning Age Requirements for Student, Apprentice and Noncommercial Lobster Licenses
(H.P. 1003) (L.D. 1368)
(C. "A" H-276)

An Act To Regulate the Landlord-tenant Relationship
(S.P. 451) (L.D. 1381)
(C. "A" S-122)

An Act To Establish the Landowners and Sportsmen Relations Advisory Board

(H.P. 1064) (L.D. 1456)
(C. "A" H-305)

An Act To Amend Certain Laws Administered by the Department of Environmental Protection

(H.P. 1133) (L.D. 1547)
(C. "A" H-298)

An Act To Permit Special Purpose Reinsurance Vehicles
(S.P. 522) (L.D. 1553)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, Requiring the Department of Inland Fisheries and Wildlife To Implement the Recommendations of the Maine Inland Fisheries Management Program 2002 Review

(H.P. 57) (L.D. 49)
(C. "A" H-304)

Resolve, Requiring the Department of Agriculture, Food and Rural Resources To Adopt Rules Regarding Care and Treatment of Elephants

(S.P. 109) (L.D. 327)
(S. "A" S-120 to C. "A" S-85)

Resolve, Relating to Renewable Resources
(H.P. 966) (L.D. 1312)
(C. "A" H-317)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

An Act To Eliminate the Social Security Offset for Unemployment Benefits

(H.P. 657) (L.D. 880)
(C. "A" H-146)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative CAMPBELL of Newfield, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. Just, very briefly, I would like to review the effects of this bill. LD 880 will increase the cost to the Unemployment Comp System by 2.2 percent or approximately \$2.7 million in the coming year. If this proposal that is based on the unemployment rate for the year 2002 and if this bill had been in effect at that time and if the unemployment rate had been higher, the cost, of course, would have also been higher.

The increase in costs will apply to all employers including private, non-profit, public employers and especially small businesses that use a lot of the older employees. I am not advocating that we pick on the poor folks that are on social security because they certainly are not the wealthier part of our population, but I am concerned about drawing money from this Unemployment Compensation Trust Fund. We just got that thing solvent in the last couple of years and if we continue to make

these draw downs on the fund, we are going to back in the same situation that we were in back in the late '90s. I would urge you to vote no on this item.

On motion of Representative RICHARDSON of Brunswick, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Ordered)

An Act To Change the Tax Laws as They Apply to Combat Troops

(S.P. 511) (L.D. 1523)
(C. "A" S-127)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative RICHARDSON of Brunswick, was **SET ASIDE**.

Representative DUPLESSIE of Westbrook **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 110

YEA - Adams, Annis, Ash, Austin, Barstow, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Campbell, Canavan, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cresse, Crosthwaite, Cummings, Curley, Davis, Dudley, Duplessie, Duprey B, Duprey G, Earle, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Glynn, Greeley, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Kaelin, Kane, Koffman, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Mailhot, Makas, Marley, McCormick, McGlocklin, McKee, McKenney, McLaughlin, McNeil, Millett, Mills S, Moody, Moore, Murphy, Norbert, Norton, Nutting, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Andrews, Brannigan, Bryant-Deschenes, Bull, Bunker, Carr, Daigle, Dugay, Dunlap, Eder, Gerzofsky, Goodwin, Grose, Joy, Ketterer, Maietta, Marraché, McGowan, Mills J, Muse, O'Brien J, Pellon, Tardy.

Yes, 128; No, 0; Absent, 23; Excused, 0.

128 having voted in the affirmative and 0 voted in the negative, with 23 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

The House recessed until 1:00 p.m.

(After Recess)

The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

**CONSENT CALENDAR
First Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1142) (L.D. 1559) Bill "An Act To Amend the Laws Concerning State Board of Alcohol and Drug Counselors" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass**

(H.P. 140) (L.D. 181) Bill "An Act to Clarify the Definition of Livestock" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-377)**

(H.P. 200) (L.D. 245) Bill "An Act To Promote Planning To Protect the State's Waters" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-378)**

(H.P. 893) (L.D. 1219) Bill "An Act To Establish a Moratorium on Genetically Engineered Plants" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-376)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

(H.P. 991) (L.D. 1349) Bill "An Act Concerning Recognition of Qualified Political Parties" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-379)**

On motion of Representative EDER of Portland, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**.

On motion of Representative EDER of Portland, the House **RECONSIDERED** its action whereby it voted to **ACCEPT** the Committee Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Eder.

Representative **EDER**: Mr. Speaker, Men and Women of the House. This bill under discussion is my own bill. I thank very much the committee for its courtesy and politeness to me and to my bill. The committee has proved to be very thoughtful and helpful. I thank the House for its courtesy also. I ask a favor that when I make the following motion that members please follow my light and give me the courtesy of voting with me on my following motion regarding this bill. I move to Indefinitely Postpone.

The same Representative moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. The reason why we have Indefinite Postponement before us this afternoon is that the sponsor came and presented the bill. As the committee process goes along, as you know, once that sponsor presents the bill, it becomes now the committee's bill. What the committee did is come up with some amendment that will work in other ways than what the sponsor feels like. That is accurate for his concerns. I have told the sponsor that I will support Indefinite Postponement, but I want you to look at the amendment and vote your conscience on the

way you feel you are voting. Mr. Speaker, when the vote is taken, I request the yeas and nays.

Representative **CLARK** of Millinocket **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I am going to ask you to not support this Indefinite Postponement for a good number of reasons. This committee worked this bill and we worked it and we worked it. We took into considerations the good Representative from Portland's concerns about a margin that a party had to reach in order to maintain their status as a legally recognized party in the State of Maine. This has been a big step for this Legislature and will be a big step for all of the people in the State of Maine if this is enacted. We are giving everybody a fair chance to be a recognized party in the State of Maine by maintaining a solid number threshold of registered voters so that they are not playing the yo-yo game of having to maintain a certain percentage of voters that went to the polls and voted in the last gubernatorial election. A party, whether the Green Party or another party that comes out, the Pat Blanchette Party for Equal Justice, whatever, would not be playing this game. They would know as long as their roles show that they had 15,000 registered voters in the State of Maine, they would have a voice in government. This committee worked very hard at this and I think it is a good bill. The Representative when he presented it to us, turned this over to the jurisdiction of this committee and we have brought it to the floor. I believe it is in the best interest of all of the people in the state that we vote on this bill as it is presented. To Indefinitely Postpone is not going to serve the people that this committee worked so diligently to serve. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Duplessie.

Representative **DUPLESSIE**: Mr. Speaker, Men and Women of the House. This is a unanimous committee report, as the good Representative from Bangor just explained to you. I would encourage you to vote against this motion pending. Vote against it and we will get back to the main motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Eder.

Representative **EDER**: Mr. Speaker, Men and Women of the House. I concur that the intention of this bill was to make a more stable position for fledgling parties. That, indeed, was my intention. With all due respect to the hard work that was put in by the committee, maybe a few of my colleagues who have had experience with a bill changing its face once a bill has been released. It has been a great experience for me to learn that sometimes when you release that idea, you don't come out with the outcome that you are looking for. I know many members here know what that is about.

This bill would make Maine one of the more restrictive states for ballot access in the country if it were to succeed as amended. Not to be contrary, but, in fact, it would do quite the opposite of what it was intended to do as it is amended before you. Thank you Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 111

YEA - Adams, Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Cummings, Curley, Davis, Dudley, Duprey B, Eder, Fletcher, Glynn, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jodrey, Kaelin, Laverriere-Boucher, Ledwin, Lewin, McKee, McKenney, McNeil, Millett, Mills S, Moody, Moore, Murphy, Muse, Nutting, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tardy, Tobin D, Trahan, Treadwell, Woodbury, Young.

NAY - Ash, Barstow, Bennett, Blanchette, Bliss, Breault, Canavan, Clark, Cowger, Craven, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Greeley, Hatch, Hutton, Kane, Ketterer, Koffman, Landry, Lemoine, Leman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McGowan, McLaughlin, Mills J, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

ABSENT - Brannigan, Bryant-Deschenes, Bull, Bunker, Daigle, Dugay, Grose, Jennings, Joy, Maietta, Marraché, McCormick, O'Brien J, Peavey-Haskell, Pellon, Tobin J, Vaughan.

Yes, 65; No, 69; Absent, 17; Excused, 0.

65 having voted in the affirmative and 69 voted in the negative, with 17 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

Subsequently, the Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-379)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 16, 2003.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 664) (L.D. 887) Bill "An Act To Amend the Maine 'Lemon Law'" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-382)**

(H.P. 801) (L.D. 1083) Bill "An Act To Encourage Hunting by Simplifying Hunting Laws" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-391)**

(H.P. 1002) (L.D. 1367) Bill "An Act To Amend the Laws Regarding Junkyards, Automobile Graveyards and Automobile Recycling Businesses" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-381)**

(H.P. 1068) (L.D. 1463) Bill "An Act To Amend Maine's Arborist Licensing Laws" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-386)**

(H.P. 1136) (L.D. 1550) Resolve, Authorizing the Transfer of Land from the State to Maine School Administrative District No. 16 Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-388)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

ENACTORS

Emergency Measure

An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by School Administrative District No. 71

(H.P. 1193) (L.D. 1615)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Acts

An Act Pertaining to Former Members of the Maine State Retirement System

(H.P. 608) (L.D. 831)

(C. "A" H-322)

An Act To Ensure Segregation of Spoiled, Defective and Void Ballots

(S.P. 322) (L.D. 981)

(C. "A" S-129)

An Act To Allow Petitions for Protection of Rental Property and Tenants Based on Actions by Guests or Dangerous Pets

(S.P. 353) (L.D. 1022)

(C. "A" S-123)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

SENATE PAPERS

The following Joint Resolution: (S.P. 569)

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS OF THE UNITED STATES TO ENACT THE AMERICA RX ACT

WE, your Memorialists, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States and the Congress of the United States, as follows:

WHEREAS, each day, millions of Americans face economic hardships because they lack coverage for prescription drugs; and

WHEREAS, the costs of prescription drugs have risen at an alarmingly rapid rate; and

WHEREAS, prescription drugs provide essential treatment to all our citizens and are the most rapidly growing component of health care in the nation; and

WHEREAS, in the United States, in the absence of any form of national regulation of patented drugs, Americans often pay more for drugs than citizens living in any other country in the world; and

WHEREAS, the Legislature of the people of Maine, in good faith and with the best of intentions, created a program that would help the people who needed it most and passed a bill that was the first in the nation to allow the negotiation of prescription drug prices through the use of existing discounts and rebates with drug companies; and

WHEREAS, other states, including Alaska, Arizona, Arkansas, California, Connecticut, Hawaii, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Hampshire, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Vermont, Washington and West Virginia, have taken steps to support or emulate the program crafted by the State of Maine; and

WHEREAS, the prescription drug companies have brought suit against the State of Maine in the courts to have this law declared void; and

WHEREAS, the America Rx Act, based on Maine's program, has been designed to provide access to lower-cost prescription drugs for all Americans who lack adequate coverage; and

WHEREAS, under the America Rx Act, the Federal Government would act as a pharmacy benefits manager to negotiate for lower prescription prices. This approach uses the power of the free market to allow the millions of American citizens with no access to discounts to pool together and negotiate as one block; and

WHEREAS, under the America Rx Act, there is an incentive to ensure that manufacturers negotiate in good faith. If pharmaceutical manufacturers refuse to negotiate, they would no longer be eligible for federal tax deductions for advertising and marketing expenses; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people we represent and in joining the expressed desire of other states, reaffirm our support for establishing fairer pricing for prescription drugs for all individuals without access to prescription drugs at discount prices by respectfully urging and requesting that the President of the United States and the Congress of the United States take positive steps to enact the America Rx Act; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States, to the President of the United States Senate, to the Speaker of the House of Representatives of the United States and to each member of the Maine Congressional Delegation.

Came from the Senate, **READ** and **ADOPTED**.

READ and **ADOPTED** in concurrence.

Under suspension of the rules, members were allowed to remove their jackets.

The following items were taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE REPORT - Ought to Pass as Amended by Committee Amendment "A" (S-151) - Committee on NATURAL RESOURCES on Bill "An Act Concerning Storm Water Management" (EMERGENCY)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-151)**.

TABLED - May 14, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

Subsequently, the Committee Report was **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (S-151)** was **READ** by the Clerk.

Representative DUNLAP of Old Town **PRESENTED House Amendment "A" (H-368) to Committee Amendment "A" (S-151)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. In reading the Committee Amendment I was struck by a sentence that I thought needed some further clarification. The sentence as spelled out in the Committee Amendment is as follows, "Material may not be deposited on the banks of Class A waters in any manner that makes transfer of pollutants into the waters likely." I thought that could be made a little bit clearer for those who might be charged with enforcing that particular clause. This amendment that I am presenting changes the wording to say this. "Material may not be deposited on the banks of Class A waters in any manner that makes the negligent transfer of pollutants into the waters imminent." I think this makes the focus clearer without changing the committee's intent and it would also absolve the Committee on Natural Resources from the judgment of the ages when future generations look back and say, my gosh, they ended their sentences with adverbs.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. The eminent Representative from Old Town presents an amendment that aims to improve the language in the Committee Amendment. This amendment is focused on Section E of existing statute that came before the committee as a department bill. That larger statute is four pages long and I appreciate though that the good Representative from Old Town would like to improve the language in Section E, by changing the word likely to the word imminent and adding the word negligent. Curiously enough we have an editor on our committee, Representative Makas from Lewiston, who has done a superlative job in catching confusing language in our legislation. In fact, it was her good work that corrected existing language in statute to create the current committee amendment. That is to say that this language already exists in statute and has for some years. As we were reviewing the department bill, the Representative from Lewiston on our committee said, you know, that is a pretty confusing wording of the statute. Shouldn't we change that wording? We took all the same words more or less and she helped rearrange them into more readable form. Now the good Representative from Old Town would like to wordsmith some more. In his effort to improve the committee's work, the unanimous committee report, the Representative would like to add the word negligent, which has a particular legal connotation that wasn't in the statute, that this committee did not intend to put in the statute, but now the good Representative would like to add it. I urge the House not to change this committee's unanimous report, particularly in this regard. In regard to vocabulary, synonyms that the Representative would prefer, instead of he word likely eminent. The eminent legislator prefers imminent, which means pretty much the same thing as likely. In my dictionary it says likely means, expected to occur. Imminent means about to occur. I don't know whether you are more

favorable to expected or about to, but I think it is a mute point. It is a waste of our precious time. I recognize that the Representative's work is done in the Inland Fish and Wildlife Committee, ours isn't quite done in Natural Resources, but I understand Taxation has a big tall order ahead and could use some assistance. Thank you Mr. Chair.

The Chair ordered a division on the motion to **ADOPT House Amendment "A" (H-368) to Committee Amendment "A" (S-151)**.

A vote of the House was taken. 17 voted in favor of the same and 69 against, and accordingly the motion to **ADOPT House Amendment "A" (H-368) to Committee Amendment "A" (S-151) FAILED**.

Subsequently, **Committee Amendment "A" (S-151) was ADOPTED**.

The Bill was assigned for **SECOND READING** Friday, May 16, 2003.

SENATE DIVIDED REPORT - Majority (12) Ought to Pass - Minority (1) Ought Not to Pass - Committee on AGRICULTURE, CONSERVATION AND FORESTRY on Bill "An Act To Clarify the Timber Harvesting Notification Requirements"

(S.P. 463) (L.D. 1407)

- In Senate, Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

TABLED - May 13, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - Motion of Representative McKEE of Wayne to ACCEPT the Majority OUGHT TO PASS Report.

Subsequently, the Majority **Ought to Pass as Amended Report was ACCEPTED**.

The Bill was **READ ONCE**.

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on Bills in the **Second Reading**.

Representative TRAHAN of Waldoboro **PRESENTED House Amendment "A" (H-385)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative TRAHAN: Mr. Speaker, Ladies and Gentlemen of the House. For those of you who don't remember, I stopped this bill a few days ago because I had some concerns with it. Just to give you a brief description of what the bill did, originally the bill would have done away with the exemption for those landowners who harvest less than five acres of land from the landowner notification requirements. This amendment clears up those concerns I had with that exemption. There was a small loophole in the law that allowed individuals who wanted to harvest on their own property to allow contractors to harvest on that property and be exempted under this law. This amendment would clarify that the landowner who is performing the project or the harvesting would be exempt from the notification requirements. I believe it takes care of all the concerns that I had. It was supported by the department. I ask you to support this amendment. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative MCKEE: Mr. Speaker, Men and Women of the House. I do appreciate the good Representative Trahan for bringing this to our attention. I completely concur with him that by the addition of this language we don't penalize the small landowner who is harvesting his own land, but it also gets at the department's needs to be able to trace those harvests. Thank you very much.

Subsequently, **House Amendment "A" (H-385) was ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-385) in NON-CONCURRENCE** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-357) - Committee on TRANSPORTATION on Bill "An Act Authorizing the Operation of Low-speed Vehicles on Certain Roads" (EMERGENCY)

(H.P. 313) (L.D. 393)

TABLED - May 14, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - ACCEPTANCE OF COMMITTEE REPORT.

Subsequently, the Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-357) was READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 16, 2003.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (S-68) - Committee on BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT on Bill "An Act To Establish the Pine Tree Development Zones Program"

(S.P. 456) (L.D. 1385)

Which was **TABLED** by Representative SULLIVAN of Biddeford pending **ADOPTION of Committee Amendment "A" (S-68)**.

Senate Amendment "B" (S-146) to Committee Amendment "A" (S-68) was READ by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Men and Women of the House. I apologize for my allergies and I hope you can hear me okay. I am a cosponsor on this bill on the Pine Tree Zones. I think they are an excellent economic development tool. What I do object to is Senate Amendment "B" on this bill. It shifts the operation on the Pine Tree Zone from the Department of Economic and Community Development to Maine Revenue Services, plus it adds a position in the Maine Revenue Services. Therefore, I will be voting against this amendment. I hope you will follow my light. In my conversations with the Chief Executive, he does not support this change either. Hopefully you can follow my light and we can defeat this amendment and move on to supporting the Pine Tree Zone bill. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House. I would like to save most of the comments for later, but I would like to speak to the Senate Amendment that we are about to adopt or not adopt. This bill has been talked about and it is amazing that the media seems to have more information on it than the committee itself at times. It is interesting that everybody has weighed in on the Senate Amendment and we, as a committee, had it. We were comfortable with it. I would ask you to pass this so we can go on and debate the whole bill. Let's accept this, get us in position so we can be in a better way to tell about the bill itself and be ready

to go back. I am going to ask you to please support this and then we will try to vote for the bill afterwards. Thank you.

Representative BOWLES of Sanford **REQUESTED** a roll call on the motion to **ADOPT Senate Amendment "B" (S-146) to Committee Amendment "A" (S-68)**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is adoption of Senate Amendment "B" (H-146) to Committee Amendment "A" (S-68). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 112

YEA - Adams, Barstow, Bennett, Blanchette, Bliss, Breault, Clark, Cowger, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Faircloth, Fischer, Gerzofsky, Jackson, Kane, Ketterer, Koffman, Laverriere-Boucher, Lemoine, Lerman, Lundeen, Makas, McKee, McLaughlin, Mills S, Norbert, Norton, O'Brien L, O'Neil, Paradis, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson E, Richardson J, Simpson, Smith N, Sullivan, Suslovic, Thompson, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Canavan, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Craven, Cressey, Crosthwaite, Curley, Davis, Duprey B, Earle, Eder, Finch, Fletcher, Gagne-Friel, Glynn, Greeley, Hatch, Heidrich, Honey, Hotham, Hutton, Jacobsen, Jodrey, Kaelin, Ledwin, Lessard, Lewin, Mailhot, McGlocklin, McGowan, McKenney, McNeil, Millett, Mills J, Moody, Moore, Murphy, Muse, Nutting, Patrick, Rector, Richardson M, Rines, Rogers, Rosen, Sampson, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Thomas, Tobin D, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Woodbury, Young.

ABSENT - Brannigan, Bryant-Deschenes, Bull, Bunker, Daigle, Goodwin, Grose, Jennings, Joy, Landry, Maietta, Marley, Marraché, McCormick, O'Brien J, Peavey-Haskell, Pellon, Saviello, Smith W, Tobin J.

Yes, 51; No, 80; Absent, 20; Excused, 0.

51 having voted in the affirmative and 80 voted in the negative, with 20 being absent, and accordingly the motion to **ADOPT Senate Amendment "B" (S-146) to Committee Amendment "A" (S-68) FAILED**.

Subsequently, **Committee Amendment "A" (S-68) was ADOPTED**.

The Bill was assigned for **SECOND READING** Friday, May 16, 2003.

The following items were taken up out of order by unanimous consent:

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-387)** on Resolve, Authorizing the Commissioner of Administrative and Financial Services To Increase the Ground Lease Term at the Long Creek Youth Development Center from 50 to 90 Years

(H.P. 1034) (L.D. 1412)

Signed:

Senators:

ROTUNDO of Androscoggin
LaFOUNTAIN of York
GILMAN of Cumberland

Representatives:

McLAUGHLIN of Cape Elizabeth
KETTERER of Madison
CROSTHWAITE of Ellsworth
BARSTOW of Gorham
BOWEN of Rockport
BUNKER of Kossuth Township

Minority Report of the same Committee reporting **Ought Not to Pass** on same Resolve.

Signed:

Representatives:

PEAVEY-HASKELL of Greenbush
STONE of Berwick
SUKEFORTH of Union

Representative SUSLOVIC of Portland - of the House - abstaining.

READ.

On motion of Representative McLAUGHLIN of Cape Elizabeth, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-387)** was **READ** by the Clerk and **ADOPTED**. The Resolve was assigned for **SECOND READING** Friday, May 16, 2003.

Divided Report

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-389)** on Bill "An Act To Prohibit Personal Watercraft on Lake St. George in the Town of Liberty" (H.P. 477) (L.D. 647)

Signed:

Senators:

CARPENTER of York
KNEELAND of Aroostook

Representatives:

DUNLAP of Old Town
McGLOCKLIN of Embden
TRAHAN of Waldoboro
WHEELER of Kittery
WOTTON of Littleton
WATSON of Bath
PINEAU of Jay

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-390)** on same Bill.

Signed:

Senator:

BRYANT of Oxford

Representatives:

RICHARDSON of Greenville
TOBIN of Dexter
HONEY of Boothbay

READ.

On motion of Representative DUNLAP of Old Town, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-389)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 16, 2003.

The following item was taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (9) **Ought to Pass as Amended by Committee Amendment "A" (H-354)** - Minority (4) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Laws Governing Municipal Citizen Initiatives and Referenda" (EMERGENCY) (H.P. 309) (L.D. 389)

TABLED - May 14, 2003 (Till Later Today) by Representative McLAUGHLIN of Cape Elizabeth.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. I think we tread on dangerous ground here when we seek to repeal the people's right to veto. It is part of the Constitution that we live under in the State of Maine. It is also a fundamental right that the people that we represent have fought hard to get. It was about 100 years ago that this fight took place at the state level. Since then we have come to appreciate the value of direct citizen input and direct citizen feedback on the legislative process, which we all know all too well is not always perfect. I say we tread on dangerous ground. I think we violate the faith that the citizens have put on us. We violate their fundamental right to govern themselves by not allowing them to undo what their municipal representatives have done. I urge my colleagues to vote Ought Not to Pass. Thank you Mr. Speaker.

Representative CAMPBELL of Newfield **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Faircloth.

Representative **FAIRCLOTH**: Mr. Speaker, Men and Women of the House. I am very sympathetic to the motive behind this legislation and feel that providing finality and certainty in the process is important and that working toward that goal is absolutely appropriate and to be commended. However, as the legislation is currently crafted, I have a couple of concerns and want to express those. As I understand it now with the legislation as written, I want to lay out an example for you, a scenario, and explain why I think that is problematic. Let's say in February of a given year, February 1st of a given year, someone brings a project forward and they file an application for a permit. Let's say on March 1st of that same year, citizens have decided to bring forward a petition, have certified that they have an appropriate number of petitions to have a citizen's referendum on a particular issue that is of concern to them because of a development proposal filed in February. In April, the project is approved by the city, even though as of that date in March, every one knew, the developer, the city, the community, knew that there were enough petition signatures and therefore there would be a referendum come June. If this were to pass as it is currently written, that would mean that even if the voters in June expressed their will to change an ordinance, which in a way would negate that particular application, the voice of the voters would be absolutely ignored. I think that is problematic. Having discussed this with the author of

the amendment, in fact, I think they are sympathetic to this concern. While I am very sympathetic to the underlying goal, I will not be supporting the legislation as written. I look forward to amendments that might correct, I think, this important concern for the rights of the voters. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. For the 70 new freshman that are here this year, we can use the same speech we used last term, because you weren't here to hear this debate. This is the same bill we had last session. I had the dubious distinction to be standing at a desk where Representative John McDonough used to sit. He eloquently and almost single-handedly helped to defeat this bill because it was a bad bill. I am here to tell you this bill is back and it is still equally bad. Anytime you fool around with citizen's initiatives, it is a bad day. I used to be on the Biddeford City Council for six years. I will tell you that developers have red carpet treatment in my community. When someone comes in my community and they want to develop, they can go to the code enforcement officer. They walk in. It is unbelievable the treatment that they receive. If you think that this would hamper development, you are sadly mistaken. In our town we roll out the red carpet.

What isn't so equally received is people's opinions. We have an incinerator in the middle of my community. Had the public officials listened to the public then, we might not have that in the middle of our town. When I go door to door after three terms, I knock on the door and people say, "Hi Joanne, where do you want me to sign?" I have probably single-handedly gone door to door for more citizen initiatives than most anyone in my community. What it does is it helps to level the playing field. Once could argue that when you elected those city officials, you elected those members on the planning board. The members on the planning board are not elected. They are appointed. Sometimes we don't have a lot of choices on public officials who run in local elections, because not a lot of people want to be involved. This is a safety net. This is democracy at its truest form.

The argument we heard last session is it was about affordable housing. One thing I have learned being in the Legislature is if you talk about affordable housing, senior citizens and children, you are going to do well, because those are things that we all care about. In my committee, Natural Resources, we had people before us and I think Representative Hutton and I asked, what was affordable housing? I think the number was like 140,000. We almost fell off our chairs. In my community that is a lot of money. That is not affordable housing.

I guess the bottom line here is, in honor of John McDonough, because this bill was brought to us because of what happened in Portland. A citizen's initiative helps to bring people to the bargaining table. It helps to make development better. It is a sense of community. It is really about what the people in your community want.

I spoke last session about my Christmas village, my Christmas village that I take out every Christmas. It doesn't have an incinerator. It has old-fashioned lanterns and a community where everyone knows one another, a community where we all have a say. That is what this does. Citizen's initiatives help the community come together and you get a true sense of what people want. This is a bad bill. I ran on clean elections. I didn't take any money from bankers and I didn't take any money from realtors. That is what is behind this. I think, as I said before, developers have an edge already. The people of the State of Maine deserve that equal opportunity and this is about citizen's

initiatives. Thank you very much. Please follow my light. This is a bad bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative MILLS: Mr. Speaker, Men and Women of the House. This is a bill that has been worked very carefully in prior years and I believe was worked very diligently by the committee this year. May I suggest to the chamber that there are at least two sides to this story. Perhaps the courteous thing to do is to go along with accepting the committee's work, that is by adopting the Majority Ought to Pass Report for the purposes of allowing the committee to amend this bill on the floor and put it into its proper posture so that we might debate this issue on its merits, rather than on the current posture or procedure that the bill finds itself in. In other words, I would encourage you to vote yes on the pending motion so that it might get to the substance of the bill as properly amended and then debate the merits of whether we proceed to enact the bill. Thank you.

Representative McLAUGHLIN of Cape Elizabeth moved that the Bill be **TABLED** until later in today's session pending her motion to **ACCEPT** the Majority Ought to Pass as Amended Report.

Subsequently, the same Representative **WITHDREW** her motion to **TABLE**.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative PATRICK: Mr. Speaker, Ladies and Gentlemen of the House. I am going to start off by giving a little bit of history on why I am opposed to this Ought to Pass report. Last session there were three defining reasons that really stand out in my mind. One was the Kotch decision, which I am not going to talk about at all. That was a devastating issue. The second was when the truckers came down because of the overweight. There were hundreds of truckers that came here. The third thing was citizen's initiatives. Being on the Legal and Veterans Affairs Committee, we had about a dozen or 15 citizen initiatives that came before us. The one thing that I learned is that there are many groups representing thousands of people in the State of Maine that came to our committee to tell us of their disdain for tinkering with any citizen's initiatives.

As a matter of fact, one point came when we had about four hours of testimony, a group of people and one person in particular, started giving testimony and he got so angry we had to bang the gavel and stop and explain to the gentleman that you can't do that and you can proceed. He continued to proceed and went very ugly again and banged the gavel. I think this went on and after the third time we had to explain to the gentleman that he couldn't do that. We are going to have to get the police up here and you either abide by the rules or we are going to have to have you forcibly removed. That was the passion that people had, not just individuals, but for their group for this issue of citizen's initiatives.

With that, I would like to say, this is an old fight. It is a fight about direct democracy and it is not new. If we look at the Maine Constitution, it is very clear under Article 4, Part 3, Section 21. I am not a constitutional scholar. It just happens to be in here. If we look at the Maine Constitution it is very clear under those articles that the city council of any city may establish a direct initiative and people's veto to the electors of such city in regard to its municipal affairs. The language goes on. It is very clear that the people of the state in 1907 granted, through a constitutional amendment, the right of local control on this issue. Any town in the state can enact an ordinance on this point. That is their prerogative. I don't believe that we, as a Legislature, should intervene in that local effort.

The background on that is very interesting. In 1907, the Maine Constitution was amended. It was part of a series of amendments, which dealt with the people's initiative and people veto. It was done, that is why we have a 90-day delay now for enactment of our laws so that there is a period for people to veto of what we do in this body. At that time there was great debate about whether or not those changes should be made and in a wonderful book on the Maine Constitution written by Marshall Tinkle. He points out that the theoretical importance of this amendment and this whole package of people's initiative, citizen's initiative language, must not be underestimated as it has forever altered the character of Maine's government from a pure representative democracy to a mix of representative and direct democracy. In other words, the people have a direct voice in what we do.

There was great debate on the floor of the House when those series of amendments were being proposed. One of those interesting to me was by Mr. Walden of Dexter, Representative Perry will like this one, who began, Mr. Speaker, I have not intended to make any remarks upon which point, which may have sounded familiar to what we still do to this very day. Another one was by Mr. Cobb of the great working community of Gardiner, the Speaker's community, and he pointed out quoting Abraham Lincoln that the common people are fast losing control of the machinery of government in the present agitation for referendum is but an effort on their part to regain their control. Abraham Lincoln in his Inaugural Address said, "Why should there not be a patient confidence in the ultimate justice of the people? Is there any better or equal hope in the world, the very idea of monopoly is repugnant to the populous sentiment and its practice must always be a menace to popular rights in an injury to a business interest." Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative BOWEN: Mr. Speaker, Men and Women of the House. I guess somebody from the committee out to say something. Here goes. There has been a lot of talk about democracy and citizenship so far in the debate. I have to say that if I was to rename this act, I probably would call it something along the lines of the act to encourage municipal citizenship. The reason is because what this bill does is it forbids a citizen's referendum group from coming along at the very end of a project to attempt to stop it from being done, after final permission has been given for a construction project to be completed. A better example connecting back to what the Representative from Bangor, Representative Faircloth, laid out, would be that a guy comes in with a proposal in February and then he has to go before this board and that takes a month and then he has to go to zoning and that takes a month and then he has to go to DEP and that takes a month, then he has to go to DOT and that takes a month and then he has to go to land use and then he has to go back to the planning board and then he has to go to the comprehensive planning committee and finally along about a year or so later or 18 months, he has finally gotten the 25 different permissions that he has to get from 17 different government agencies in order to get his project approved. Any where along that process, citizens can stand up and say they don't like it. They can go to their zoning board meetings. They can do whatever. They can put a halt to it anywhere along that path.

What this bill proposes to do is that after they finally have all that stuff done, all this investment of time and of tens of thousands, hundreds of thousands of dollars perhaps, he can finally begin work on his project. The cement truck backs up and the bulldozers come and then all of sudden a citizen initiative

group catches wind of this thing and what they want to do is put a stop to the process and then go back and change all the rules. This guy built this project with the understanding that those were the rules and then we change them all. That is what we are trying to stop from happening. What that amounts to is robbery. This guy built on this property, bought this property in the first place and has moved forward with all of this work under the understanding that the laws in place at that time were the laws that he was supposed to abide by. What this does is prevent a citizen's group from coming after the fact and changing the rules and actually taking from this guy what he has been putting in. He buys a piece of property for a half a million dollars and he figures he can turn it into a large-scale investment. He puts all this work in and somebody changes it, now his investment isn't worth anything. They didn't even have the common decency to stick a gun in his back.

I call this an act to encourage citizenship, because what it says is if you don't want a Walmart in your town or you don't want a Krispy Cream Donuts on the corner down the street, then you need to get involved with your municipality and all of those boards right now. Go to the zoning board meetings. Go to the comprehensive planning meetings. Go to the ordinance review committee meetings. Get involved. Get your map out of the whole town. You go to the Rockport Town Office, there is a huge map on the wall there with pins and color codes and crayons marked all over it everywhere. It is the comprehensive plan. It says where everything is supposed to be. If you don't like it, then you go in there and you change it. You set the rules ahead of time so a developer, a homeowner, can come in and look at the map and say these are the rules. I want to play by the rules. These are the rules. That is good citizenship. Good citizen ship is not coming after the fact and taking away what somebody has invested, after they have put all this time into it playing by one set of rules that you have already enacted and then going back and changing all the rules afterwards. That is not good citizenship. Good citizenship is getting involved right now in the process. You are going down to the town and getting on these boards and designing and planning in advance what the town should look like. If you don't want a Walmart, then go down there and make sure the laws in your town make sure that that can't happen. Don't wait until after the Walmart trucks are backing up to the door and then go and change all the rules. That is what this bill will do. It is fairness. It is not quashing anybody's rights to say anything. All along that whole process, even today, you have a right to do what you can to stop these things from happening. Let's at least play fair and let's at least have developers play by one set of rules. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Suslovic.

Representative **SUSLOVIC**: Mr. Speaker, Men and Women of the House. Homelessness in Maine is rising. An estimated 1,100 people are homeless on any given night in Maine. The increase in the number of bed nights for homeless people in the state was 51 percent from 1993 to 2000. The increase in greater Portland was 102 percent. That is the number of bed nights for homeless people. Family occupancy in homeless shelters increased by 167 percent. Rapidly rising rent is a major contributing factor to the increase in homelessness. Another statistic is in the decade of the '90s Maine ranked 49th in the nation in the creation of multiunit housing per capita. After those statistics I just read about homelessness, rather than respond, rather than deal with the financial burden that many families in Maine are struggling under because of the high cost of housing compared to their income, we instead ranked 49th in the nation. One has to ask why? Why haven't we responded?

Housing developers are not responding to the need for more rental units. The cost of construction is high. Land is scarce in the more urban areas, such as Portland, Augusta and Bangor. The key factors, great uncertainty and costs incurred in seeking permit approvals exist due to unpredictability and lengthy local permitting processes. Unclear and cumbersome zoning regulations and, here ladies and gentlemen of the House is the real kicker, neighborhood resistance to new affordable housing developments.

There was just a forum in greater Portland this week on affordable housing and why we haven't risen to the challenge. NIMBY-ism, not in my backyard was brought forward as the single most significant barrier to the creation of more affordable housing for people in Maine that are without housing or they are paying too much for housing. When someone is paying too much for housing, it means they don't have enough money left for prescription drugs, health care or food. Food pantries across the state have been experiencing a tremendous increase because people who do have housing are paying so much of their income for housing, they don't have money for food.

This bill is designed to inject a slightly greater amount of predictability and certainty into the development process. What this bill does not do is restrict citizen's abilities to petition their government prospectively in any shape, form or fashion. It does not restrict citizen's ability to petition their government prospectively. It further mandates that there must be in order for the ban on retroactive moratoriums to be in effect, there must be at least one advertised public hearing. There is nothing in this bill that prevents municipalities from changing their ordinances to require two or three advertised public hearings. There is nothing in this bill that prevents municipalities from mandating to an applicant that they must pay for the advertising. They must do a mailing to all abutters, everyone within a quarter mile or a mile or everyone in town to let them know what is going on and that there is a public hearing. There is nothing in this bill that would prevent a municipality from enacting an ordinance, as many have, that would require an applicant with anything to do with land use, to post on a large sign on the property where they would like to do something that an application is on file at Town Hall, available for viewing, furthermore, the public hearing will be at such and such a date and such and such a time. These are all within the ability of municipalities to mandate that this be done.

This bill is not, in any shape, form or fashion a way to subvert public process. Instead, as the good Representative spoke before me, this bill is actually designed to encourage. In fact there is a letter from the State Planning Office in support of this bill. I just quote one very brief part. I apologize for going on so long. "Retroactivity undermines the local land use planning and regulatory process established by the people in a community, and it sends the wrong message - not only to the regulated community that is trying to follow the rules, but also to the regulators - those many lay people serving on local boards and committees that serve countless hours in the local process. The costs, both financial costs and time invested, can be substantial. We understand the vital role that citizen initiatives and referenda serve in our democratic society, and that we should be suspect about putting limitations on them. This is one specific instance where we think that it is important and proper to limit retroactivity, David H. Keeley, Acting Director of the Maine State Planning Office."

I would ask my colleagues to support this bill. There will be plenty more discussion on the various amendments that come forward, but I would ask that you would support the Majority Ought to Pass as Amended Report. Thank you.

Representative CUMMINGS of Portland assumed the Chair.
The House was called to order by the Speaker Pro Tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Dudley.

Representative DUDLEY: Mr. Speaker, Men and Women of the House. With all due respect to my colleague from Portland, Representative Suslovic, I disagree with him on his two major points. This bill was designed to subvert the public process. This bill does restrict the citizen's right to petition their government. This bill was brought forward two years ago. It was a direct response to events taking place in my district on Munjoy Hill. There was an affordable housing project being developed on Munjoy Hill. Unfortunately the City of Portland and the developer involved didn't take the public process too seriously, certainly not seriously enough. The people in my neighborhood felt the process was more or less conducted behind closed doors. It was not true, but that was the perception because of a lack of effort on the part of the developer and the city to engage the neighborhood in the process. This bill would effectively say to the City of Portland and any other city or town in the state and to any developer, you don't really need to worry about that public process too much. Just follow the letter of the law and you will be okay. That is not good enough. They should follow the spirit of the law. They should bend over backwards to engage the public, both the cities and the developers should bend over backwards to engage the public. I know developers and members of this chamber who do it very, very well and whom I admire a great deal. They find that the public goes along with something that is sold to them properly.

The project in my neighborhood, Island View Apartments, didn't have that massive public engagement and it was one of the most difficult challenges I have faced since I have been a member of this body. I also serve as a member of the neighborhood organization. We were asked to take a stand on this affordable housing project in my district. It was very difficult. I supported the project and my neighborhood was very upset about their lack of engagement. I supported the project through that very difficult time and recognized and supported also the right of the neighborhood and the people living in it to petition the City of Portland to say that we want to have a greater voice. I support that 100 percent and I support affordable housing. It is not an either or argument.

In the end it worked. The public in the end had their say. The citizens of Portland endorsed the project and the project went forward. Those same citizens who opposed the project, because they weren't engaged in the process, now say publicly that the project was an asset to the neighborhood. Having that affordable housing project in the neighborhood is an asset. They were allowed an opportunity to have their voice and now the neighborhood is unified in welcoming all our new neighbors. For those reasons, I will be opposing the majority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Walcott.

Representative WALCOTT: Mr. Speaker, Men and Women of the House. I will say something that I promised myself I would never say. I didn't intend to speak on this, but I must respond to some of the things that I have heard. We have to face it, sometimes elected officials make mistakes and some times they don't listen. I am proud and honored to serve in this chamber with my city council woman from Lewiston, Representative O'Brien. She does a very good job at that. I think we are lucky in

Lewiston that we have never had an issue like this, at least that I can remember.

However, Maine has a tradition as a very independent state. In the past 30 years we have had 12 years of an Independent Governor. People take their rights and their right to petition their government seriously. When we make a mistake or we don't listen, they should be able to respond. They should be able to do what they need to do to fix that problem. For example, the Legislature five years ago, I think, passed a bill that I agreed with. I thought it was a great bill protecting the rights of certain citizens. There was a people's veto of that bill. Even though I disagreed with the people's veto, the people spoke and had their say. The same thing happens on local levels.

What concerns me most about this bill is the emergency preamble. We are taking away someone's rights to have a citizen's initiative and we are doing it in a manner that under the Constitution, they can't even do a people's veto of this bill if they don't like it. According to the Constitution, emergency measures are not subject to people's veto. It is Section 17, in your little blue book it is page 23. I will be supporting the Minority Ought Not to Pass Report on this because this is a citizen's house. It is just like city councils are city councilors of the people. I believe that is part of the reason. We had a bill before us a little while ago to limit the size of the Legislature, about 8,000 people, and we do it because people want to be close to their Representatives. They want to be close to their government. In California a legislator represents 450,000 people. You are not close to your constituents that way. In Maine it is different. It is different for a reason. It is different because citizens take their government seriously. If their government doesn't listen, they want the right to overturn that. I would just urge everyone to oppose the Ought to Pass as Amended Report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cape Elizabeth, Representative McLaughlin.

Representative MCLAUGHLIN: Mr. Speaker, Men and Women of the House. I rise to make a point of clarification. The motion before us is acceptance of the Majority Ought to Pass as Amended Report. I would urge and encourage you to look at the amendment, which is (H-354). It reads, "Amend the bill by striking out everything after the title and before the summary." The amendment replaces the original bill. Therefore, it also strips out the emergency clause. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative Tobin.

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. Anybody that has been in this body for any length of time knows that I am a defender of home rule. I believe a municipality has the right to its NIMBY-ism. I believe they have a right to oppose affordable housing to some extent. I believe that the people have a right to petition their government and change the rules. What I don't believe in is that you can change the rules of the game or the rules of development part way through the process. At what point do you tell a project manager that he has to stop the job. Do you tell him before he digs a hole? Do you tell him before he puts a foundation in? Do you tell him before he puts the roof on? That sounds rather ridiculous, but a developer or a project manager has invested a lot of money to get all of the permits that he needs under the current ordinances that a town has to go ahead with the project. If he knew that those ordinances were going to be changed, he would probably read the new ordinance and decide whether it would be feasible or not. I believe that the citizens have a right to petition their government and have a right to change the laws. I believe it is grossly unfair to do it retroactively. Therefore, I will be voting with this Ought to Pass.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bangor, Representative Faircloth.

Representative **FAIRCLOTH**: Mr. Speaker, Men and Women of the House. We have heard a lot of thoughtful comments today. I would include my agreement with the gist of the comments by Representative Bowen, because if I were to summarize what he had to say it was that we need certainty and finality in the permitting process. I think that is a very valid and valuable goal. However, where I respectfully want to disagree is when we look at specific examples. When I look for specific examples of how this might work, I look back to the example that I gave earlier in my remarks, which was not a hypothetical, it was a real case from the law court case of the City of Portland versus Fisherman's Wharf II. In that case, if the amended version were to pass, literally, we would pull the rug out from under a citizen's petition before there was approval of the permit. I think everyone on either side of the issue would agree it is an anomalous and strange and unwanted result, but that is the way it is under the proposal that is now before us.

Representative Dudley brought up a real world example of how the process has worked. I would submit to the body that under the current law things have worked fine in the two real world examples of which I am aware.

I called out of interest to the City Manager this morning. I asked him in his entire career how many times developers have had their projects undermined under the scenarios hypothetically described here and he gave me the grand total. He has been the city manager of Bangor essentially my entire adult life. The grand total of those times was zero, zero times that a petition has gone and undermined the processes as we are hypothetically discussing. While I see valid situations where the current process has worked to, I am interested and would pose a question through the chair of situations where the type of injustices we are discussing has, in fact, occurred in the real world and in real examples.

I have a rule about legislation. It is the, what is the problem rule? If we are not seeing existing problems with the permitting process, then I think it raises a very high bar. I still think there is a valid issue here in this legislation, very valid, but I think it raises the bar pretty high when we don't have real world examples before us of situations where there has been an unfairness in the permitting process. I think we need to consider that. Again, I look forward to rejecting this as it is currently before us so we can look to amendments that would modify this legislation. Thank you.

The **SPEAKER PRO TEM**: The Representative from Bangor, Representative Faircloth has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Cape Elizabeth, Representative McLaughlin.

Representative **MCLAUGHLIN**: Mr. Speaker, Men and Women of the House. I rise to answer the question posed by the good Representative from Bangor. I, in fact, can give you a real world situation. I checked with my seatmate, the good Representative from Yarmouth, before I rose to speak. I said that I am going to talk about the Yarmouth situation is that okay? He said to go ahead. I was the planning director for the Town of Yarmouth prior to being elected to this esteemed body. We had a subdivision proposal. It was taking place on a field. We know how near and dear fields are to the hearts of many of us who live directly adjacent to them. The neighbors participated in the public hearings that were held. The neighbors convinced the planning board that the project did not meet the ordinances of the Town of Yarmouth and it was defeated by the planning board. The developer went back to the drawing board, literally, redid the

project to address the neighbors concerns, brought it back to the planning board, it went through both preliminary and final subdivisions, although there were notices sent out to each of those occasions. The developer received approval for that project from the Yarmouth Planning Board.

Very shortly thereafter a citizen petition was started that would have invalidated that approval. That developer played by the rules. They addressed citizen's concerns and then they were stopped dead in their tracks because the citizen initiated referendum, which didn't go on the ballot until the following November, this approval was in May at the latest. They are sitting there on tender hooks from May until November. They don't do anything with the property. The referendum question would have invalidated the approval. It would have gone back previous to the approval. In my mind it was very fortunate that the good residents of Yarmouth overwhelmingly defeated that referendum proposal. I was at the point doing my professional work as a planner, living by the ordinances that the Town of Yarmouth had given me to work with. If that referendum has proceeded successfully, I could no longer work under those circumstances. I was going to lose my credibility. I was going to lose the integrity I had both for the citizens I worked with and for those who brought forward applications. There is a real world example. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Auburn, Representative Simpson.

Representative **SIMPSON**: Mr. Speaker, Men and Women of the House. I have heard the good Representative from Rockport and the good Representative from Portland saying that people should be actively involved in these decisions at the local level. Unfortunately that isn't always enough. In my city, the City of Auburn, I went to city council meeting where I watched every single citizen who spoke speak against changing the land use zoning and the city council voted for it anyhow. Prospectively there were citizens there who had worked long and hard to develop a comprehensive land use plan that set aside this piece of land to be a buffer between where people live and where there was commercial development. The city council decided that is okay, we really don't have to pay attention to that comprehensive land use plan because it is just a guideline. There is nothing that makes us follow it. They changed that zoning against people's will.

Yes, they had a public hearing. People came and they spoke and they were ignored. That is not to say that that is right, but that is what happens. Sometimes local governments don't listen to the people. Sometimes we do things that people don't agree with. Everything that we do here, people can undo. I don't think it is fair to say that if we pass this bill that citizens have to live with what the city council did unless they have deep pockets and can take them to court, which is essentially the only remedy that is left. If we pass this bill the only thing a citizen can do if they disagree with something their city council does is to take it to court. That is not fair.

I also wanted to correct the good Representative from Lewiston. Petition procedure, citizens can undo emergency legislation at the beginning of the next session. They can't do it through the people's veto, but they can petition and undo even emergency legislation that we passed.

In Article I, Section 15, "The people have a right at all times in an orderly and peaceful manner to assemble, consult upon the common good, to give instructions to the Representatives and to request, of either department of the government by petition or remonstrance, redress of their wrongs and grievances." I urge you please to not take this away from people at the local level

and vote Ought Not to Pass and not to vote for the pending motion. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Lisbon, Representative Berube.

Representative **BERUBE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today as my main speech, my main debate. Nine of our colleagues and I in this House serve on the Business, Research and Economic Development Committee. Among many oversight responsibilities we have we also review and recommend to you a variety of economic development proposals including grants, business loans, guarantees of development through the Maine State Housing Authority, through FAME, through the Maine Development Foundation. We also review and recommend grants and proposals and loans for aquaculture, various farming endeavors, bio research and all of which require development.

It is their to stir development, stir employment and to encourage consistency throughout our economy. We encourage development and that is what this very bill is designed to protect. All of our citizens as Representative Bowen said have all kinds of opportunities, many times as much as 24 months through the various processes of local government, state government to express their views and to express them as eloquently as they can. If the project goes through, that usually means the majority of the people are voting for it and want it. In a democratic society it responds to the majority. I encourage you all to consider what we do here in the Legislature. We are here to encourage development. We support it. We give grants. We review it time after time. With that, I encourage you to support this bill to the greatest extent possible. Thank you very much.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. The Representative from Cornville, Representative Mills, admonished us to move on with the Majority Report so that we could then talk about amendments that might improve upon it. I fear we are not getting there. My shot at participating in this debate might be lost so here I am. I don't know if it was a year ago or two years ago, although it should be emblazoned on my brain that I stood in this very place and was one of the votes, and it happened to pass by one vote, that defeated this or a similar piece of legislation. Since I voted on the other side, I have had a good deal of time to think about my position and talk with colleagues in my community and elsewhere about this issue and the principle of the issue. I think the principle of the issue has to do with fairness that the heart of democracy is justice. Without fairness, democratic processes aren't respected. If they are not respected, then people will not want to participate in them.

It seems to me that the right to petition government is bounded. Our processes in this legislative body are bounded. There are rules of the game. There are procedures. There are protocols. We have to live with those. If we don't live with them, we are not going to respect the outcomes. We are not going to be in good faith. We refer to the Constitution, I won't speech much longer, I am at risk surrounded by so many lawyers, that is seems to me that the Constitution made an effort, whether it was in perfect balance or not to balance the public rights with private property rights.

I have never been known as a property rights advocate, but I must say that if the democratic process, at the local level, the legislative process, through elected and appointed officials, has moved through and I have witnessed it often enough to see how laborious and painstaking it can be, how frustrating it can be, but democracy is messy, that's okay, when it gets to the end of that

process and an individual has made an investment to get to the end of that process, whether it be a homeowner or a business, whomever, and they have prepared to make an investment and then go on with the permit in hand to make that investment, it seems fundamentally unfair to me, whether we can think of 100 examples or no examples of this occurring. I think we could maybe if we did the research, it still seems unfair to me on principle that you would retroactively undo the legislative process. I think that is disrespectful of leaders. It wouldn't encourage me to want to serve on a board if citizen's referendum overturned decision after decision. If you don't want to me on the board, then don't appoint me. If you don't want me on the town council, then unelect me. That is the democratic process. If we make mistakes, we learn from them and we change our ordinances accordingly. I agree with Representative Bowen in that instance.

In any case, I support the Majority Report and I hope we have an opportunity to debate the amendments, which might improve this piece of legislation. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Colleagues of the House. I will not be very lengthy. We are doing quite well in some aspects of the definition of our government. We are a government of the people. We were all duly elected. We are a government by the people. That seems to be working all right. It is in the third part of it that we have problems, a government for the people. It should be for the common good, not just for the few special interests, whatever they may be. Democratic government should not be one of convenience. Democracy should not close any doors to those who would express their feelings and beliefs, however unpopular they may be at times.

This is a constitutional right that is very dear to me. If this had been in place, this proposed legislation while our forefathers debated the future of this country in the 1770s. We probably would still be flying the Union flag today and serving in the Maine Parliament, heaven forbid.

I was proud to vote in May on a similar bill in the 120th. I will proudly do the same today. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bowdoinham, Representative Hutton.

Representative **HUTTON**: Mr. Speaker, Ladies and Gentlemen of the House. I guess I have a different perspective than the good Representative from Cape Elizabeth. I had the chance to participate in a citizen's referendum in this last session in my own town. We had two developers who came in who bought our small little tiny airport under the guise of keeping it open and keeping the land around it, that borders on the Kennebec, the way it was. I guess we trusted them. All of a sudden they decided that they were going to put in a subdivision. I don't know how it is in your town, but in my town that was pretty frightening because our subdivision ordinance is pretty terrible or at least it was until we finally changed it this past year.

The process worked. We are talking about this like it is a big surprise to the developers. This is part of the process that they should know about. Our developers, the developers who came in, I don't know if they knew about it at all because they were from Vermont. I don't know if they bothered to check it out. To me, that is what they should have been doing as a developer.

The citizens in our town got together a petition fairly quickly and many people signed onto it. The town selectmen quickly had a special town meeting where both sides of the issue were discussed, vehemently discussed from what I understand. I was up here at the time. People on both sides got a little bit of what they wanted. The process worked. It wasn't all for the developer. It wasn't all for the citizens. In the process they

talked it out and they came to a compromise and the developers then did move forward with a modified plan. It didn't happen as quickly as they would have liked. I am sure the example in Yarmouth probably didn't happen as quickly as those developers would have liked, but it went through the process and it did work eventually. I ask you not to take away our right as citizens to petition our government. I speak for myself because I have been part of that.

Representative TWOMEY of Biddeford inquired if a Quorum was present.

The Chair declared a Quorum present.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bowdoinham, Representative Hutton.

Representative HUTTON: Thank you Mr. Speaker. Since I have been dealing with this a lot, I know that last time I had about 20 e-mails on this issue asking me to please vote against it. This time I haven't received quite as many because I don't think the people out there know that we are doing this. I have a feeling that they haven't quite gotten the word yet. I know that the Town of Pittston has and their selectmen actually had started a Resolution. I just wanted to read part of it.

"Had it not been for the citizen's petition, events in our town would not have brought to the attention of our select board, Pittston's committees and boards and other town officials. The citizen's process has brought Pittston all the way to the Maine Supreme Court." It is part of the process and that is what I urge you to do. Keep the process as it is. If the developers don't know about it, then someone out there ought to be educating them. Please vote Ought Not to Pass.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative MCKEE: Mr. Speaker, Men and Women of the House. I rise for the second session to speak on this bill. I am very proud to speak on this bill. This is almost a hundred year old tradition we have here and one that I am enormously proud of. I come from the State of South Carolina and I always like to say the grand State of South Carolina, because that is what the great Strom Thurmond said every time he came to our grade schools. He said, "Be proud of the State of South Carolina," but the way he said it was the way I just said it to you. I am proud to live in the great State of South Carolina. I want to say to you that I am proud to live in the great State of Maine. I did grow up in South Carolina and I was proud of it. You know after I left it and came to this state and lived here for 32 years, that state pales in the light of Maine. As far as grass roots, citizen participation, citizen involvement, this place is rich and alive. Go to the chamber of the South Carolina Legislature and it is palpable. With 151 people representing some 8,000 people, we are alive. We have direct democracy. We see our constituents every day. The thing I realized that we have that South Carolina doesn't have and something that a lot of states don't is this citizen initiative, this opportunity to redress our government. It is all over our state. This is something not to let go of lightly. If you do want to let go of it lightly, then for goodness sakes do it in southern Maine, which is where I can hear that we must have a problem. If the problem is in Portland, then by all means do it. I just received a yellow piece of paper across my desk right now that says the city councilors are opposed to limiting the citizen's right to a petition. Maybe it is just Yarmouth now. I don't know. It certainly is not in central Maine and in northern Maine.

There is a difference between the processes. I heard the good Representative speak of the process. My husband is on the planning board. I have served on the planning board. You know what that process is like. Long, cold, snowy winter nights

we are off at those meetings, five people, developers come in quietly working. We don't have a newspaper to put out what we are doing. We have a little messenger that comes out about once a month to the people of the town and it takes them a few months to even know that the planning board is even entertaining something until we get to the town meeting and by gosh at that point we all find out and we start to speak up. We don't have the *Portland Press Herald* telling us on a daily basis that something is happening. We don't have a paper that says that Walmart wants to come in and build another big box. If I thought that something would get rid of Walmarts in the State of Maine, I would be right here with this, because every time we build one, we hurt the economy of the State of Maine. If I could paint a stripe on the town limits of Winthrop, Maine, I would and say, you drive over that, you have just driven out of our local economy. Go back and buy in your own town. It appears that we have a problem with a process in some towns that needs to be addressed.

It sounds as though from listening to the good Representative Dudley that it does happen sometimes. That somebody is a very important entity. It is not one citizen. It is a large group of citizens who come forward to say something happened, but we, the people don't want it to happen. We have done those things here. We have passed legislation that ran counter to what the citizens of this state wanted and went home in the summer to find out, why did you do that? We had to come back and eat humble pie the next January and repeal it even though some of the funds may have already been expended in that expensive program. This is not uncommon. Let's not give away this sacred tradition that we have. It is almost a century old. For heaven's sake, don't take it away from those of us who have no cause to want to give it up. If those municipalities, as was said earlier, want to have such an ordinance as this amendment would suggest, then please go home, rally the citizens and go forward with it. I hope that you will join those who are opposed to this and vote against the Majority Ought to Pass as Amended Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative LERMAN: Mr. Speaker, Men and Women of the House. I rise to speak in support of the Majority Ought to Pass Report. At the same time I would like to say a few things. I am really in a bind on this particular piece of legislation. On the one hand I have a great deal of respect for the initiative process and, in fact, over the years have been involved in a number of those efforts. On the other hand, I understand the limitations of being able to hamstring and reverse decisions that have been made by municipal bodies.

I will give you a particular example of a situation that I am involved with personally that does tear me and have me support this report. As many of you know, I am involved with providing services to individuals with developmental disabilities and in doing that work I do go around and purchase homes for the purpose of setting up homes for individuals. I can tell you that if it were not for the protection of the fair housing law that was passed by this body some years ago, it would be nearly impossible for me to do the work that I do. There are many municipalities that, in fact, are very provincial in their point of view. There are people within neighborhoods that are very provincial. I am just very concerned today that we do have a process that gives people the opportunity to have input and there are times when that opportunity is squandered or really needs to be risen above in looking out for the best interest of not only community, but the broader interests of people in general.

I do have concerns about the bill as it is written. I am aware that there are a number of amendments that will be entertained in the event that this Ought to Pass motion is enacted. I would like

to see one or more of those amendments seriously debated and hopefully enacted so that there are some controls over and above what is currently written right now. At this time, I do support the motion as it is presented to the body. Thank you.

Representative McKEE of Wayne inquired if a Quorum was present.

The Chair ordered a quorum call.

More than half of the members responding, the Chair declared a Quorum present.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 113

YEA - Andrews, Annis, Austin, Barstow, Berry, Berube, Bierman, Bliss, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cowger, Cresse, Crosthwaite, Curley, Davis, Dugay, Dunlap, Duplessie, Duprey B, Earle, Finch, Fletcher, Gerzofsky, Glynn, Goodwin, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Kaelin, Koffman, Ledwin, Lerman, Lessard, Lewin, McGowan, McKenney, McLaughlin, Millett, Mills S, Moore, Muse, Nutting, O'Neil, Percy, Perry J, Pineau, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Tobin D, Trahan, Treadwell, Woodbury, Young, Mr. Speaker.

NAY - Adams, Ash, Bennett, Blanchette, Campbell, Canavan, Clark, Craven, Cummings, Dudley, Duprey G, Eder, Faircloth, Gagne-Friel, Hatch, Hutton, Jackson, Kane, Ketterer, Laverriere-Boucher, Lemoine, Lundeen, Mailhot, Makas, McGlocklin, McKee, McNeil, Murphy, Norbert, Norton, O'Brien L, Paradis, Patrick, Perry A, Pingree, Rines, Sampson, Simpson, Smith N, Smith W, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Wotton.

ABSENT - Brannigan, Bryant-Deschenes, Bull, Bunker, Daigle, Fischer, Grose, Jennings, Joy, Landry, Maietta, Marley, Marraché, McCormick, Mills J, Moody, O'Brien J, Peavey-Haskell, Pellon, Saviello, Tobin J, Vaughan.

Yes, 81; No, 48; Absent, 22; Excused, 0.

81 having voted in the affirmative and 48 voted in the negative, with 22 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-354)** was **READ** by the Clerk.

Representative KOFFMAN of Bar Harbor **PRESENTED House Amendment "A" (H-380) to Committee Amendment "A" (H-354)**, which was **READ** by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Colleagues of the House. I am a cosponsor of this legislation and I do support it in concept. As you heard, one of my communities, Pittston, actually passed a Resolution against this piece of legislation. I still support it. Pittston's objections and quite frankly, mine as well were motivated in great deal by the land spreading of sludge and waste from septic systems. This amendment before you right now would put the same protections for a building project and apply those to the spreading of sludge and septage.

I got involved with this bill and worked very hard with the sponsor to not only provide language in the bill to assure public input through this process, but also added language to maintain the ability to pass a retroactive local ordinance regarding the land spreading of sludge or septic system waste. I believe there is a real distinction between a housing project where substantial investments have been made through the purchase of land and

where an open public hearing process has been held to gain local citizen input. There is a distinction between that and the spreading of sludge and septage waste on our land where none has been purchased. It is done on other people's land and many communities have no local permitting process and no local input. I believe the status quo has been working fine in the areas of sludge and septic spreading. While I would like to protect the developer of an affordable housing project or a group home or an expansion of a small business, after major investments have been made, as I mentioned the purchasing of land or proper permits have been obtained, I do not think that the spreading of sludge and septage rises to the same level of protection that this amendment would give them. I urge you to support the bill as we have just passed and vote against this amendment. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to briefly speak to the amendment, which I earlier presented. Most specifically to one element of it that specifies that applicants for municipal approval or issuance of a permit shall reimburse the municipality the costs of advertising and mailing for the hearing or hearings conducted. This isn't necessarily a mandate to the applicant, but it provides those communities with very low budgets an opportunity at the developer's expense to make sure that there is adequate advertising of a project and public hearing expenses are covered by the applicant rather than the municipality. It does remove the exemption on sludge and septage ordinances. I am sympathetic to some of Representative Cowger's remarks, but local communities do have the authority under home rule to pass ordinances as strict as the states. The state has authority over this issue generally and I think it must. It is under the jurisdiction of the Natural Resources Committee. It is a very difficult issue. It gets ever more difficult as we see more development sprawl in the countryside where sometimes treated sludge, composted sludge, is spread on farm fields. Although we did hear from many good old farmers about how their hayfields had been restored to health and productivity as a result of this product, in any case, I wanted to explain the amendment and move us onto other issues.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative Tobin.

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. I guess I am not totally opposed to this amendment, but I really don't see the need for it. As the good Representative from Bar Harbor, Representative Koffman stated, a local ordinance concerning the spreading of sludge can be no more restrictive than the state statute. The state statute is already in affect so a local ordinance would have no effect on that, other than that they would be able to enforce it locally instead of through the DEP.

As far as charging the people for mailing notification and costs, I believe most municipalities figure that in when they charge them the application fee. The towns are already getting that money. This may be a feel good amendment. It will actually not change anything. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative **RINES**: Mr. Speaker, Men and Women of the House. Myself, like my good friend from Hallowell, Representative Cowger, has spent an enormous amount of time on the topic of sludge and sludge related projects. The topic literally stinks, no pun intended. We spent many hours in front of Natural Resources on this topic. I cannot support any amendment that would carve that piece out of the original

legislation. Although I don't support the original legislation, that part of it is important to me. Having that one more piece of safeguard available to our local communities I think is very important. Thank you.

Representative COWGER of Hallowell **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-380) to Committee Amendment "A" (H-354)**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-380) to Committee Amendment "A" (H-354). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 114

YEA - Adams, Austin, Barstow, Berube, Bliss, Bowen, Crosthwaite, Cummings, Davis, Finch, Kaelin, Koffman, McGowan, McLaughlin, Mills J, Mills S, Muse, Perry A, Perry J, Richardson M, Smith N, Suslovic, Thomas, Woodbury.

NAY - Andrews, Annis, Ash, Berry, Bierman, Blanchette, Bowles, Breault, Brown R, Browne W, Bruno, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Curley, Dudley, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Hatch, Heidrich, Honey, Hutton, Jackson, Jacobsen, Jodrey, Kane, Ketterer, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Mailhot, Makas, McCormick, McGlocklin, McKee, McKenney, McNeil, Millett, Moore, Murphy, Norbert, Norton, Nutting, O'Brien L, O'Neil, Paradis, Patrick, Percy, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Rines, Rogers, Rosen, Sampson, Sherman, Shields, Simpson, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Sykes, Tardy, Thompson, Tobin D, Trahan, Treadwell, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Young, Mr. Speaker.

ABSENT - Bennett, Brannigan, Bryant-Deschenes, Bull, Bunker, Daigle, Fischer, Goodwin, Grose, Hotham, Jennings, Joy, Landry, Maietta, Marley, Marraché, Moody, O'Brien J, Peavey-Haskell, Pellon, Saviello, Tobin J, Vaughan.

Yes, 24; No, 104; Absent, 23; Excused, 0.

24 having voted in the affirmative and 104 voted in the negative, with 23 being absent, and accordingly the motion to **ADOPT House Amendment "A" (H-380) to Committee Amendment "A" (H-354) FAILED**.

Representative SIMPSON of Auburn **PRESENTED House Amendment "B"**

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Simpson.

Representative **SIMPSON**: Mr. Speaker, Men and Women of the House. This amendment is an attempt on my part to help define an end point. I think in the municipal citizen's initiative referenda it has been about retroactivity. I understand the need for developers to have a point in time where they can move forward and not worry about things coming back and saying we are going to have this initiative and three months later, six months later, this is just so municipal ordinances passed and adopted, citizen's have three weeks to start a petition. If they don't do that, then the door is closed to them. It leaves room for democracy and room for developers. I think it is a reasonable

compromise between citizen's rights and developer's rights. I hope that you will vote with me to adopt this amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Suslovic.

Representative **SUSLOVIC**: Mr. Speaker, Men and Women of the House. I appreciate the effort that Representative Simpson and others have put in to try to tighten this up. I do not disagree with the intent whatsoever. I must, however, ask you to take a hard look at the wording here. My concern about the wording of this amendment is that it still leaves it somewhat open ended. It simply requires that someone provide notice to the municipality that they intend to initiate a referendum within three weeks. There is not end point on when that deadline must be in. That would vary from municipality to municipality. Some municipalities would have a procedure for this and some do not. I would urge you to vote Ought Not to pass on the amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Tobin.

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. I was doing quite well until today came along. I hadn't spoken once. I think this goes back to the statement that I said earlier, when do you stop a process. Do you stop it after all the permits are received? Do you stop it when he applies for the project? Do you stop it when they put the foundation in? Do you stop it when the walls are up? Just when do you stop it? I am afraid that this three-week period is just a number picked off the ceiling. Therefore, I will be voting against this amendment.

Representative **LEMOINE** of Old Orchard Beach **REQUESTED** a roll call on the motion to **ADOPT House Amendment "B" (H-401) to Committee Amendment "A" (H-354)**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Simpson.

Representative **SIMPSON**: Mr. Speaker, Men and Women of the House. I would just like to address the Representative from Portland's problem with my language in this amendment. The Revisor's Office used notice as a broad term. I went down and I said that I would rather have something a little more clear and specific. I was told the reason they used this language is that every municipality has different rules for notice. It is difficult when trying to offer a blanket rule to apply everywhere to find the correct language when every municipality's rules are different. In the case of Freeport, citizens if they don't like a municipal ordinance, have 30 days to return a petition to the city council in order to overturn a new ordinance. This language would allow that to happen within that time frame. I wouldn't change it. It would happen after that 30 days. The end game would be 30 days after the ordinance was adopted. I wish that people would consider this as a reasonable compromise to protect citizen's rights and to allow developers to know when they can move forward. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. Let's suppose that you buy a plot of land on a lake or in a subdivision and you and your spouse decide you want to build a property, build a house on this plot of land in order to build it the way you would like to build it, you get a waiver of a setback requirement from the zoning board in your community. You get your bank financing lined up. You get your permit after a public hearing on your application. You are ready to go and the

bulldozers arrive and backhoes and the foundation is being dug and three weeks after you got your permit and the construction is underway and you have committed your construction financing and you are well on the way to building your dream home, any member of your community, a neighbor who doesn't like you, a relative who doesn't like you, anybody you ever did harm to delivers a little letter to the code enforcement officer or the town manager and says I am giving notice of a public referendum to protest the granting of your setback. What do you do? What does your bank do? How long do you wait for this public referendum to take life?

Let's not talk about Walmart or an affordable housing project. Let's talk about you and me building a house. That is what this bill is all about. It is all about fairness. It is about saying let's let people who play by the rules, who Representative Bowen so artfully pointed out, have their day in a public hearing. Let's have everybody talk about the project and when the permit is issued, consistent with the existing ordinances and laws of that municipality, let's let due process take its course. Let justice be done. For that reason, I urge that you vote against the pending amendment and go on to pass the bill. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "B" (H-401) to Committee Amendment "A" (H-354). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 115

YEA - Adams, Barstow, Blanchette, Breault, Clark, Cowger, Craven, Cummings, Dudley, Duplessie, Duprey G, Eder, Faircloth, Gagne-Friel, Gerzofsky, Hatch, Hutton, Jackson, Landry, Laverriere-Boucher, Lerman, Lundeen, Makas, McGlocklin, McKee, Norbert, Norton, O'Brien L, Paradis, Patrick, Percy, Pineau, Pingree, Piotti, Sampson, Simpson, Smith N, Smith W, Thomas, Thompson, Twomey, Walcott, Watson, Wotton.

NAY - Andrews, Annis, Ash, Austin, Berry, Berube, Bierman, Bliss, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Davis, Dunlap, Duprey B, Finch, Fletcher, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Kaelin, Ketterer, Koffman, Ledwin, Lemoine, Lessard, Lewin, McCormick, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moore, Murphy, Muse, Nutting, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sherman, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Tobin D, Trahan, Treadwell, Usher, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Bennett, Brannigan, Bryant-Deschenes, Bull, Bunker, Canavan, Daigle, Dugay, Earle, Fischer, Glynn, Goodwin, Grose, Jennings, Joy, Kane, Maietta, Mailhot, Marley, Marraché, Moody, O'Brien J, O'Neil, Peavey-Haskell, Pellon, Perry A, Perry J, Saviello, Shields, Tobin J, Vaughan, Young.

Yes, 44; No, 75; Absent, 32; Excused, 0.

44 having voted in the affirmative and 75 voted in the negative, with 32 being absent, and accordingly the motion to **ADOPT House Amendment "B" (H-401) to Committee Amendment "A" (H-354) FAILED.**

Representative LEMOINE of Old Orchard Beach **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (H-354).**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I just wanted to say that this is a sad day for

Democrats. It really is. This is a sad day for all the little people who don't get to have a vote. This is a sad day for those who really care about issues and might have not seen a notice in the newspaper that night to get to the planning board. This is a message to developers, the red carpet treatment, which they already have, the money they already have for the lawyers, the money that they have to get everything paid, this is a sad day for the little people.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of Committee Amendment "A." All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 116

YEA - Andrews, Annis, Austin, Barstow, Berry, Berube, Bierman, Bliss, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Cummings, Curley, Davis, Dunlap, Duprey B, Earle, Finch, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Kaelin, Kane, Koffman, Ledwin, Lerman, Lessard, Lewin, McCormick, McGowan, McKenney, McLaughlin, Millett, Mills J, Mills S, Moore, Muse, Nutting, O'Neil, Percy, Perry J, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Tobin D, Trahan, Treadwell, Usher, Woodbury, Young, Mr. Speaker.

NAY - Adams, Ash, Bennett, Blanchette, Campbell, Canavan, Clark, Craven, Dudley, Duplessie, Duprey G, Eder, Faircloth, Gagne-Friel, Gerzofsky, Hatch, Hutton, Jackson, Ketterer, Landry, Laverriere-Boucher, Lemoine, Lundeen, Makas, McGlocklin, McKee, McNeil, Murphy, Norbert, Norton, O'Brien L, Paradis, Patrick, Perry A, Pineau, Pingree, Rines, Sampson, Simpson, Smith N, Smith W, Thomas, Thompson, Twomey, Walcott, Watson, Wheeler, Wotton.

ABSENT - Brannigan, Bryant-Deschenes, Bull, Bunker, Daigle, Dugay, Fischer, Goodwin, Grose, Jennings, Joy, Maietta, Mailhot, Marley, Marraché, Moody, O'Brien J, Peavey-Haskell, Pellon, Saviello, Tobin J, Vaughan.

Yes, 81; No, 48; Absent, 22; Excused, 0.

81 having voted in the affirmative and 48 voted in the negative, with 22 being absent, and accordingly **Committee Amendment "A" (H-354) was ADOPTED.**

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-354)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

On motion of Representative CLOUGH of Scarborough, the House **RECONSIDERED** its action whereby Resolve, To Establish the Committee To Study Compliance with Maine's Freedom of Access Laws

(H.P. 797) (L.D. 1079)
(C. "A" H-326)

FAILED FINAL PASSAGE.

On motion of Representative RICHARDSON of Brunswick, **TABLED** pending **FINAL PASSAGE** and later today assigned.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

The following items were taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 93) (L.D. 84) Bill "An Act To Reimburse the State Poet Laureate and To Provide Access to the State Poet Laureate's Services" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-392)**

(H.P. 521) (L.D. 704) Bill "An Act Relating to Harness Racing Laws" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-397)**

(H.P. 526) (L.D. 720) Bill "An Act To Protect Health Care Workers Who Report Medical Errors" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-396)**

(H.P. 835) (L.D. 1132) Bill "An Act To Simplify Calculation of Legal Interest" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-393)**

(H.P. 1044) (L.D. 1425) Bill "An Act Relating to the Protection of Whistleblowers" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-395)**

(H.P. 1084) (L.D. 1479) Bill "An Act To Protect Maine Consumers from Hidden Fees and Charges" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-394)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 413) (L.D. 1282) Bill "An Act To Amend the Laws Governing Agricultural Marketing and Bargaining" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-160)**

(S.P. 477) (L.D. 1439) Bill "An Act To Protect Young Drivers and Passengers" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-159)**

(H.P. 194) (L.D. 239) Bill "An Act to Elevate the Standards of Foster Parenting in the State" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-399)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.. **ORDERED SENT FORTHWITH**.

ORDERS

On motion of Representative USHER of Westbrook, the following Joint Order: (H.P. 1196)

ORDERED, the Senate concurring, that Bill, "An Act To Assist Low-income Families To Comply with the Booster Seat Law," H.P. 474, L.D. 644 and all its accompanying papers, be recalled from the Governor's desk to the House.

READ and PASSED.

Sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

On motion of Representative BLANCHETTE of Bangor, the House adjourned at 4:38 p.m., until 9:00 a.m., Friday, May 16, 2003.